EXTENSIONS OF REMARKS

Six-Point Anti-Communist Program

EXTENSION OF REMARKS
OF
HON. ALEXANDER WILEY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES
Thursday, April 26, 1962

Mr. WILEY. Mr. President, the Communist threat to freedom of the world requires a broad-scope, all-out effort, not only to prevent conquest of the world by communism, but also to diminish its influence.

Recently, I was privileged to review major aspects of the global struggle against communism. I ask unanimous consent to have my statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SIX-POINT ANTI-COMMUNIST PROGRAM—STATEMENT BY SENATOR WILEY

Communism—controlling one-third of the people and one-fourth of the land of the earth—represents the greatest threat to freedom in the world.

Fanatically dedicated to conquest of the globe, the Reds propagandize incessantly that communism is the wave of the future.

Tactically, the Reds feel that if this wishful thinking is repeated often and loud enough, it will come true. However, we must not allow this to happen. To the contrary, the free world and non-Communist nations possess the military and economic power and the ideology to make attack against the free world synonymous with suicide; further outstrip the Reds in economic progress. Currently, the United States alone—with a production rate of $570 billion annually—far exceeds the output of the entire Communist bloc, with a production estimated at about $350 billion; and by more effectively utilizing our salesmanship and know-how to successfully sell the ideology of freedom to win the battle of men's minds.

The Communists, in my judgment, can win only if, by default, we let them win.

For the immediate future, then, what major steps are needed to more effectively combat communism? Generally, these include:

1. Constant reevaluation and efforts to maintain adequate strength of our defense forces—particularly in relation to the Communists moving ahead in the nuclear-missile field; this requires, also, research on futuristic defenses against space attack.
2. A reexamination of our U.N. policy.
3. A reassessment of our responsibility, and ability to meet the challenges, in critical areas of the world.
4. Holding the Reds at bay with a strong hand of deterrent power: Simultaneously working with the other hand for more effective nonmilitary counteroffenses on the economic, political, and ideological fronts.
5. Fully utilizing—for propaganda exploitation and other purposes—weaknesses within the Communist program: For example, inability, under the Communist system, to produce enough food—contrasting the U.S. picture of overflowing surpluses.
6. More firmly cementing relations and cooperative efforts for mutual defense and progress with our allies, bilaterally, and multilaterally through regional organizations, including NATO, SEATO, CENTO, ANZUS, and OAS.

For the future, however, the preservation and perpetuation of freedom will require vigilance equal to—if not greater than—any previous time in history. Around the globe the Communists, deadly enemies of freedom, pursue their goals of world conquest by aggression, subversion, persuasion, and infiltration, utilizing all kinds of tactics; overt or covert, legal or illegal, ethical or unethical, humanitarian or genocidal.

How can we, as patriotic Americans, make a better contribution to combating the threat of communism and promoting progress and peace? By the following ways:

First. We must discard the idea that Uncle Sam, alone, can carry the fight against the Reds. Then, we must mobilize our resources—individually and collectively—to throw the necessary brainpower, manpower, and resources into battle against the Communists. Historically, one of the great strengths of America is the voluntary will to work, fight, and sacrifice to build a good life under a free flag, and to protect our country from its enemies.

Second. Our civic, veterans, social, cultural, and, yes, religious and other organizations can, and should, reexamine the potential ways in which they might more effectively serve our national cause.

Third. We need to more greatly utilize the know-how and technology of free enterprise for selling the ideas and ideals of freedom. This includes more effective utilization of U.S. firms operating overseas as built-in Voices of America.

Fourth. Labor, also sharing a common bond with workers around the globe, possesses an unparalleled opportunity to demonstrate how workers benefit under a free system; and how free collective bargaining can serve not only the worker but strengthen a nation.

Fifth. The creative minds—artists, writers, poets, musicians, dramatists—have a great opportunity to portray the spirit of a free people in their dedicated, relentless effort to create a better life for themselves and humanity.

Today, the Communists have an estimated 36 million people operating in about 86 nations. Their purpose is espionage, sabotage, subversion; to undermine existing, non-Communist governments; and eventually take over the countries.

This army of Red conspirators represents a threat equal to, if not greater than, the military power of the Communist bloc (if an East-West standoff by threat of mutual annihilation continues to exist).

In the face of a dedicated—yes, fanatic enemy—we must demonstrate to them and to the world:

1. That, as a free people, we are not so lazy and swimming in self-indulgence that we cannot compete with them or defend ourselves against communism;
2. That freedom is not—as Khrushchev says—an outmoded concept that is literally dying on the political vine of history; but, rather, that freedom—not totalitarian communism—is the dynamic revolution of the age that can best serve the people of the world now and in the future; and
3. That we can successfully awaken, mobilize, and put into action the great spiritual and ideological—as well as industrial, technological, scientific, military, and other forces of the free world—to triumph over communism.

SENATE

FRIDAY, APRIL 27, 1962

The Senate met at 12 o'clock meridian, and was called to order by the Vice President.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Eternal Spirit, Thou hast written Thy law on the tablets of our hearts. In Thy fellowship alone we find peace for our spirits and power for our tasks. In the brooding silence of this still moment, may open windows of faith flood our gloom with light, that in Thy sunshine's blaze our day may brighter, fairer be.

We come with hearts grateful for freedom's glorious light. Give us to see more and more that that light cannot be hidden under any selfish covering. Give us to realize that to consent, even by silence, to the crucifixion of freedom anywhere is ultimately to nail our own liberty on the same cross, knowing that with what measure we mete it shall be measured to us again.

Use our hands, we beseech Thee, to help build the City of God on the ruined wastes of this sadly divided and disordered world.

We ask it through riches of grace in Christ Jesus, our Lord. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 26, 1962, was dispensed with.

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORT OF A COMMITTEE

The following favorable report of a nomination was submitted:

By Mr. CHAVEZ, from the Committee on Public Works:

Col. Carroll H. Dunn, Corps of Engineers, to be a member of the Mississippi River Commission.

The VICE PRESIDENT. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

OFFICE OF EMERGENCY PLANNING

The Chief Clerk read the nomination of Justice M. Chambers of Maryland, to be the Deputy Director of the Office of Emergency Planning.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

U.S. AIR FORCE

The Chief Clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations in the U.S. Air Force be considered en bloc; and I take this occasion to extend congratulations to Brig. Gen. BARRY M. GOLDWATER on his promotion to major general in the U.S. Air Force Reserve.

Mr. DIRKSEN. Mr. President, notwithstanding the manifold duties of the distinguished Senator from Arizona [Mr. GOLDWATER], his fidelity to the military service, his interest in the problems of the service, and his devotion in attending all the drills and in meeting all the requirements which go along with a Reserve commission are always most faithfully observed. So I extend my congratulations, also, together with those of the distinguished majority leader, to our colleague, soon to be Maj. Gen. BARRY M. GOLDWATER.

Mr. MANSFIELD. Let me say that this is a well-merited promotion, because I understand he is commanding officer of the 999th Squadron of the Combined Air Force Reserve on Capitol Hill.

Mr. CURTIS. Mr. President, I wish to add my word of congratulations to General GOLDWATER, our colleague, the junior Senator from Arizona. This promotion is not only well deserved; it is also a very fine thing for the service.

The VICE PRESIDENT. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

U.S. ARMY

The Chief Clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

THE MARINE CORPS

The Chief Clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

NOMINATIONS IN THE AIR FORCE, THE ARMY, THE NAVY, AND THE MARINE CORPS PLACED ON THE SECRETARY'S DESK

The Chief Clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps, which had been placed on the Secretary's desk.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of all these nominations.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON REPROGRAMING ACTIONS BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on four reprograming actions by that Administration; to the Committee on Aeronautical and Space Sciences.

REPORT ON OVEROBLIGATIONS OF APPROPRIATIONS

A letter from the Secretary of Defense, transmitting, pursuant to law, reports covering 17 overobligations of appropriations within that Department; to the Committee on Appropriations.

AMENDMENT OF SECTIONS 510 AND 591 OF TITLE 10, UNITED STATES CODE

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend sections 510 and 591 of title 10, United States Code (with an accompanying paper); to the Committee on Armed Services.

REPORT ON NUMBER OF OFFICERS ASSIGNED OR DETAILED TO PERMANENT DUTY IN THE EXECUTIVE ELEMENT OF THE AIR FORCE AT THE SEAT OF GOVERNMENT

A letter from the Secretary of the Air Force, reporting, pursuant to law, that as of March 31, 1962, there was an aggregate of 2,271 officers assigned or detailed to permanent duty in the executive element of the Air Force at the seat of Government; to the Committee on Armed Services.

REPORTS ON FEDERAL CONTRIBUTIONS UNDER FEDERAL CIVIL DEFENSE ACT OF 1950

Two letters from the Assistant Secretary of Defense, reporting, pursuant to law, on Federal contributions under the Federal Civil Defense Act of 1950, for the quarters ended December 31, 1961, and March 31, 1962 (with accompanying papers); to the Committee on Armed Services.

PUBLICATION OF NOTICE OF PROPOSED DISPOSITION OF CERTAIN MOLYBDENUM

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of a proposed disposition of approximately 5 million pounds of molybdenum now held in the national stockpile (with an accompanying paper); to the Committee on Armed Services.

REPORT ON PROVISION OF WAR RISK INSURANCE AND CERTAIN MARINE AND LIABILITY INSURANCE FOR AMERICAN PUBLIC

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on the provision of war risk insurance and certain marine and liability insurance for the American public, as of March 31, 1962 (with an accompanying report); to the Committee on Commerce.

AMENDMENT OF MERCHANT MARINE ACT, 1936, RELATING TO INVESTMENT OF WAR RISK INSURANCE FUND

A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend section 1208(a) of the Merchant Marine Act, 1936, to authorize investment of the war risk insurance fund in securities of, or guaranteed by, the United States (with accompanying papers); to the Committee on Commerce.

AMENDMENT OF ACT RELATING TO COMMUNICABLE AND PREVENTABLE DISEASES

A letter from the President, Board of Commissioners, District of Columbia, transmitting a draft of proposed legislation to amend the act entitled "An act to authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases," approved August 11, 1939, as amended (with an accompanying paper); to the Committee on the District of Columbia.

REPORT ON REVIEW OF SELECTED ACTIVITIES OF FEDERAL-AID HIGHWAY PROGRAM IN STATE OF SOUTH CAROLINA

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of selected activities of the Federal-aid highway program in the State of South Carolina, Bureau of Public Roads, Department of Commerce, dated April 1962 (with an accompanying report); to the Committee on Government Operations.

REPORT ON REVIEW OF FEE ARRANGEMENTS WITH LENDING INSTITUTIONS, SMALL BUSINESS ADMINISTRATION

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of fee arrangements with lending institutions, Small Business Administration, dated April 1962 (with an accompanying report); to the Committee on Government Operations.

FEDERAL TELECOMMUNICATIONS FUND

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for a Federal telecommunications fund (with an accompanying paper); to the Committee on Government Operations.

REPORT ON RECEIPT OF PROJECT PROPOSAL UNDER SMALL RECLAMATION PROJECTS ACT OF 1956

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on the receipt of a project proposal under the Small Reclamation Projects Act of 1956 from the Banta-Carbona Irrigation District of San Joaquin County, Calif., in the amount of $967,000; to the Committee on Interior and Insular Affairs.

DON C. JENSEN AND BRUCE E. WOOLNER

A letter from the Secretary of State, transmitting a draft of proposed legislation for the relief of Don C. Jensen and Bruce E. Woolner (with an accompanying paper); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT OF NATIONAL LABOR RELATIONS BOARD

A letter from the Chairman, National Labor Relations Board, Washington, D.C., transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1961 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by representatives of the States of Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, favoring the appropriation of Federal funds for the U.S. Army Corps of Engineers to undertake surveys to determine the types of facilities needed for permanent shore protection on the eastern seaboard; to the Committee on Appropriations.

A resolution adopted by representatives of the States of Connecicut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, requesting a study be undertaken to examine programs to help provide financial assistance to those suffering property losses in flood disasters, including alternative methods of Federal flood insurance; to the Committee on Banking and Currency.

A resolution adopted by representatives of the States of Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, favoring the enactment of Senate bill 543, relating to preservation and conservation of the shoreline; to the Committee on Interior and Insular Affairs.

By Mr. SALTONSTALL (for himself and Mr. SMITH of Massachusetts):

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PRESENTING TO THE STATES A PROPOSED CONSTITUTIONAL AMENDMENT CONCERNING EQUAL LEGAL RIGHTS FOR WOMEN

"Whereas the women of our Nation have enjoyed full civil rights since the adoption of the 19th amendment; and

"Whereas there exist many statutes discriminating against women which tend to lower the Nation's prestige and status in the world community; and

"Whereas all citizens of our Nation should not only share equal civil rights but also equal legal rights, the view embraced by both major political parties in their respective platforms: Now, therefore, be it

"*Resolved*, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation presenting to the States a proposed constitutional amendment concerning equal legal rights for women; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of the Congress, and to the Members thereof from this Commonwealth."

(The VICE PRESIDENT laid before the Senate resolutions of the General Court of the Commonwealth of Massachusetts, identical with the foregoing, which were referred to the Committee on the Judiciary.)

By Mr. SALTONSTALL (for himself and Mr. SMITH of Massachusetts):

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on Labor and Public Welfare:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PROVIDE FOR THE ESTABLISHMENT OF A CIVILIAN CONSERVATION CORPS

"Whereas there is a great number of boys from ages 16 to 21 who have completed their schooling and are unemployed, and who should be employed in constructive work or in acquiring new skills or trades; and

"Whereas idleness among boys is apt to result in increased delinquency; and

"Whereas it would be advantageous for the boys and for our country to have these boys living under healthful, sanitary conditions, and subject to organized discipline: Therefore be it

"*Resolved*, That the General Court of Massachusetts respectfully urge the Congress of the United States to enact legislation providing for the establishment of a new Civilian Conservation Corps; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, and to each Member thereof from this Commonwealth."

(The VICE PRESIDENT laid before the Senate resolutions of the General Court of the Commonwealth of Massachusetts, identical with the foregoing, which were referred to the Committee on Labor and Public Welfare.)

By Mr. SALTONSTALL (for himself and Mr. SMITH of Massachusetts):

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on Public Works:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION EXTENDING FINANCIAL AID TO THE COMMONWEALTH OF MASSACHUSETTS FOR PURIFICATION OF THE WATERS OF THE MERRIMACK RIVER

"Whereas the pollution of the waters of the Merrimack River continues to be a danger to the health and welfare of all the inhabitants of the Merrimack River Valley; and

"Whereas the joint effort and financial assistance of the Federal and State governments are required in order to accomplish the monumental task of purifying the Merrimack River: Now, therefore, be it

"*Resolved*, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation extending financial aid to the Commonwealth for the purification of the waters of the Merrimack River; and be it further

"*Resolved*, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress, and to each Member thereof from this Commonwealth."

(The VICE PRESIDENT laid before the Senate resolutions of the General Court of the Commonwealth of Massachusetts, identical with the foregoing, which were referred to the Committee on Public Works.)

PROPOSAL FOR FLOYD BENNETT COMMEMORATIVE STAMP—RESOLUTION

Mr. KEATING. Mr. President, New York is proud of one of its native sons, Floyd Bennett, who attained worldwide recognition as the first pilot to fly over the North Pole with Rear Adm. Richard E. Byrd on May 9, 1926. The chamber of commerce of the town of Warrensburg has honored him by erecting a bronze plaque in the town park named for him, and the Nation as a whole should honor, posthumously, this world famous aviation pioneer.

The Warrensburg Chamber of Commerce, at a recent meeting, adopted a resolution calling for the issuance of an airmail commemorative stamp honoring Floyd Bennett, and I have asked Post Office officials here in Washington to give every consideration to including such a stamp in the Department's stamp program for this year.

Mr. President, I ask unanimous consent to have the resolution adopted by the Warrensburg Chamber of Commerce inserted in the RECORD at the end of my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas Floyd Bennett, a native son of Warrensburg, N.Y., attained national and worldwide fame and recognition as an aircraft pilot and primarily in his capacity as pilot for Rear Adm. Richard E. Byrd in the first flight over the North Pole on May 9, 1926; and

Whereas this chamber of commerce of the town of Warrensburg, N.Y., firmly believes that as this community has honored him by erecting a bronze plaque in our town park named for him, the Nation as a whole should honor, posthumously, this world famous American pioneer: Now, therefore, be it

Resolved, That the Warrensburg Chamber of Commerce, at a regular meeting thereof, recommends and supports the issuance of a commemorative airmail postage stamp in memory of the aforementioned Floyd Bennett; and be it further

Resolved, That this chamber of commerce petition the representative bodies of the Federal Government and the Post Office Department to issue such airmail stamp; and be it further

Resolved, That the Warrensburg, N.Y., post office be designated as the office of first-day sales and the postmarking of first-day covers of such said airmail stamp; and be it further

Resolved, That this chamber of commerce solicit the aid of the town board, the various town and county organizations, the churches, schools, and the general public in promoting this project; and be it further

Resolved, That this resolution be given publicity in all possible mediums and that it become a part of the permanent minutes of this chamber of commerce; and be it further

Resolved, That this resolution shall become effective immediately.

Dated at Warrensburg, N.Y., this 14th day of February 1962.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAVEZ, from the Committee on Public Works, without amendment:

S. 2806. A bill to amend the act entitled "An act to provide better facilities for the enforcement of the customs and immigration laws," to increase the amounts authorized to be expended (Rept. No. 1366); and

S.J. Res. 137. Joint resolution to authorize the Secretary of Commerce, in cooperation

with the State of Alaska, to undertake studies and surveys relative to a highway construction program for Alaska, and for other purposes (Rept. No. 1371).

By Mr. CHAVEZ, from the Committee on Public Works, with an amendment:

S. 3099. A bill to authorize an adequate White House Police force, and for other purposes (Rept. No. 1367);

S. 3156. A bill to amend section 142 of title 28, United States Code, with regard to furnishing court quarters and accommodations at places where regular terms of court are authorized to be held, and for other purposes (Rept. No. 1369);

S. 3157. A bill to repeal subsection (a) of section 8 of the Public Buildings Act of 1959, limiting the area in the District of Columbia within which sites for public buildings may be acquired (Rept. No. 1370); and

H.R. 8355. An act to authorize executive agencies to grant easements in, over, or upon real property of the United States under the control of such agencies, and for other purposes (Rept. No. 1364).

By Mr. CHAVEZ, from the Committee on Public Works, with amendments:

S. 3123. A bill to provide an office building for the Housing and Home Finance Agency (Rept. No. 1368).

FOOD AND AGRICULTURE ACT OF 1962—REPORT OF A COMMITTEE—SUPPLEMENTAL VIEWS (S. REPT. NO. 1365)

Mr. ELLENDER. Mr. President, I send to the desk an original bill reported by the Committee on Agriculture and Forestry which is a complete substitute for the bill introduced by me in the early part of February, together with a report thereon. I ask unanimous consent that the report, together with the supplemental views of Senators HART, MCCARTHY, YOUNG of Ohio, and NEUBERGER, be printed.

The VICE PRESIDENT. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Louisiana.

The bill (S. 3225) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve national resources, and for other purposes; was read twice by its title, and ordered to be placed on the calendar.

REPORT ENTITLED "TRADING WITH THE ENEMY ACT"—INDIVIDUAL VIEWS (S. REPT. NO. 1363)

Mr. JOHNSTON. Mr. President, from the Committee on the Judiciary, I ask unanimous consent to submit a report entitled "Trading With the Enemy Act," pursuant to Senate Resolution 60, 87th Congress, 1st session, as extended, together with the individual views of the Senator from New York [Mr. KEATING].

I ask unanimous consent that the report, together with the individual views of the Senator from New York [Mr. KEATING] be printed.

The VICE PRESIDENT. Without objection, the report will be received and printed, as requested by the Senator from South Carolina.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ELLENDER:

S. 3225. A bill to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve national resources, and for other purposes; placed on the calendar.

(See the remarks of Mr. ELLENDER when he reported the above bill, which appear under a separate heading.)

By Mr. PASTORE:

S. 3226. A bill for the relief of Anthony F. Bernardo and Ambrose A. Cerrito; to the Committee on the Judiciary.

By Mr. KEATING:

S. 3227. A bill for the relief of Young Wai; to the Committee on the Judiciary.

RESOLUTION

TO PRINT AS A SENATE DOCUMENT A LEGISLATIVE HISTORY OF H.R. 6775, 87TH CONGRESS

Mr. ENGLE submitted the following resolution (S. Res. 334); which was referred to the Committee on Rules and Administration:

Resolved, That a compilation of materials constituting a legislative history of H.R. 6775 of the 87th Congress (a bill to amend the Shipping Act, 1916, as amended, to provide for the operation of steamship conferences) be printed as a Senate document, and that there be printed two thousand additional copies of such document for the use of the Senate Committee on Commerce.

EXTENSION OF REGULATORY AUTHORITY UNDER CONVENTION FOR THE ESTABLISHMENT OF AN INTER-AMERICAN TROPICAL TUNA COMMISSION — AMENDMENT

Mr. ENGLE. Mr. President, on September 18, 1961, the distinguished chairman of the Committee on Commerce [Mr. MAGNUSON], at the request of the Secretary of State, introduced the bill, S. 2568, to amend the act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, and for other purposes.

Since the introduction of S. 2568, the Department of State has reviewed the matter and has concluded that certain changes in the text of this proposed legislation would be desirable.

Accordingly, on behalf of myself and the Senator from Washington [Mr. MAGNUSON], I submit, by request, an amendment in the nature of a substitute for S. 2568, embodying the text of the language now suggested by the Department. I ask that it be printed and appropriately referred, and that a letter from the Secretary of State with accompanying memorandum be printed in the RECORD.

The VICE PRESIDENT. The amendment will be received, printed, and referred to the Committee on Commerce; and, without objection, the letter and accompanying memorandum will be printed in the RECORD.

The letter and memorandum presented by Mr. ENGLE are as follows:

THE SECRETARY OF STATE,
Washington, April 20, 1962.

THE VICE PRESIDENT,
U.S. Senate.

DEAR MR. VICE PRESIDENT: By letter of September 14, 1961, the Department forwarded the text of proposed legislation "To amend the act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, and for other purposes." In due course this proposed legislation was referred to the Senate Committee on Commerce and introduced as S. 2568. In the meantime, the Department, having had this matter under review, has concluded that certain changes in the text of this proposed legislation would be desirable. The changes desired are indicated by the enclosed text of S. 2568 which incorporates and underscores the proposed changes. An explanatory summary accompanies this text. In brief, the changes in question are dictated by need for clarification and refinement and to rectify certain oversights in the original text of S. 2568.

It is respectfully requested that S. 2568 be amended as indicated.

The Bureau of the Budget advises that there is no objection to this proposal.

Sincerely yours,

DEAN RUSK.

(Enclosure: S. 2568, revised with accompanying summary.)

SUMMARY OF PURPOSES OF PRINCIPAL PROPOSED CHANGES IN S. 2568

1. Section 2 of S. 2568 (sec. 6(c) of Tuna Conventions Act) is amended to:

(a) Delete unnecessary wording;

(b) Authorize the Secretary of the Interior, after consultation with the Secretary of State and the U.S. Commissioners, to suspend the applicability of conservation regulations to U.S. vessels and nationals when a substantial degree of international noncooperation in the conservation program makes this advisable.

(c) Shift from the Secretary of the Treasury to the Secretary of the Interior the responsibility for decision with respect to whether a condition exists for the applicability of an embargo on tuna caught in the regulatory area. The former, through the Bureau of Customs, would, however, enforce any such embargo at ports of entry;

(d) Include American Samoa within the scope of any embargo on landing of tuna caught in the regulatory area;

(e) Shift the emphasis from the mere promulgation of conservation regulations by nonmembers of the Inter-American Tropical Tuna Commission to the manner in which the fishing is done. Hence, an embargo on tuna, where appropriate, could not be circumvented by simply promulgating regulations and neglecting to enforce them;

(f) Close a loophole for circumventing an embargo which would exist if the ports of a country might be used by the nationals and vessels of another country to transship tuna to the United States;

(g) Clarify the intent to prohibit, in certain circumstances, the import only of the species of tuna under conservation management caught in the regulatory area, rather than all species of tuna caught by the country concerned in the said area.

2. The change noted in paragraph 1(c) above necessitates a consequential change in section 4 of S. 2568 (sec. 8(c) of Tuna Conventions Act) which is also further revised for clarification.

3. Section 4 of S. 2568 (sec. 8(g) of Tuna Conventions Act) is amended to limit the forfeiture feature to the cargo of tuna. This change is not expected to present any difficulty with respect to securing compliance with the conservation program. It would, however, relieve an onerous burden on the fishermen to find financing for their fishing operations when their vessels and gear are subject to possible forfeiture.

4. The changes noted in paragraph 3 above necessitate consequential changes in sections 4 and 5 of S. 2568 (secs. 8(h) and 10(e) of the Tuna Conventions Act).

5. Section 5 of S. 2568 (sec. 10(c) of the Tuna Conventions Act) is amended to eliminate an apparent inconsistency with section 10(d) as regards search and arrest warrants.

6. Section 5 of S. 2568 (sec. 10(f) of Tuna Conventions Act) is amended to provide an alternative to the posting of a bond, namely to enable the accused to sell the tuna cargo in question with the proceeds of sale to be deposited in escrow pending judgment in the case. Otherwise accused fishermen could suffer a stiff penalty even though found innocent. The value of a tuna cargo frequently exceeds $100,000. At 10 percent the cost of a bond for such a cargo would be over $10,000.

NOTICE OF HEARING ON S. 3161 TO PROVIDE FOR CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. ROBERTSON. Mr. President, as chairman of the Committee on Banking and Currency, I wish to announce that a hearing will be held on May 2, 1962, on the bill, S. 3161, to provide for continuation of authority for regulation of exports, and for other purposes.

The hearing will begin at 10 a.m., in room 5302, New Senate Office Building.

All persons who wish to appear and testify on this bill are requested to notify Mr. Matthew Hale, Chief of Staff, Senate Committee on Banking and Currency, room 5300, New Senate Office Building, telephone Capitol 4-3121, extension 3921, at the earliest possible date.

SUPPORT FOR THE PRESIDENT'S DECISION TO RESUME ATOMIC TESTING

Mr. MANSFIELD. Mr. President, the resumption of atomic testing by the United States came only after great forbearance on the part of the President of the United States and only after every attempt had been made to reach an agreement with the Soviet Union to suspend further testing, on the basis of an agreed-to program calling for regulation and inspection on the part of both countries.

I am somewhat surprised and disturbed by the attitude of some countries which, when the Soviet Union some months ago resumed testing, without any prior notification to anyone, withheld comment at that time and by their silence indicated no opposition to the tests which that nation conducted.

As I see it, the President had no choice except to order resumption of the tests in the interest of our national security. His hand was, in effect, forced by the previous unannounced tests by the Soviet Union and by the fact that the recalcitrance of that country in the recent negotiations made it impossible to arrive at a mutually satisfactory agreement.

Mr. President, I ask unanimous consent that a telegram sent by the commander in chief of the Veterans of Foreign Wars of the United States to President Kennedy, on the matter of the resumption of atomic tests, be included at this point in the RECORD. By this telegram, Comdr. Robert E. Hansen, of South St. Paul, Minn., national commander in chief of the Veterans of Foreign Wars of the United States, assures the President of the full support of the Veterans of Foreign Wars for his courageous and necessary decision.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

The PRESIDENT,
The White House,
Washington, D.C.:

On behalf of 1,300,000 oversea combat members of the Veterans of Foreign Wars of the United States, I take this opportunity of sending assurances of our full endorsement and unqualified support of your decision to resume atomic testing. The resumption of atomic testing was urged by a resolution unanimously adopted by the thousands of VFW delegates to our 1961 national convention. The VFW's belief in the necessity of resuming atomic testing is based on the realization that the United States is the keystone of the free world and consequently the military strength of the United States must be assured if freedom is to be protected and preserved. The atomic testing which began at Christmas Island should be interpreted by freedom-loving people throughout the world as a demonstration of our Nation's determination to be increasingly strong in the defense of freedom. The VFW solidly supports your decision to resume atomic testing and believes that it is the only choice that could have been made in the defense of our Nation and its allies.

ROBERT E. HANSEN,
Commander in Chief, Veterans of Foreign Wars of the United States.

BACKWARD, TURN BACKWARD, O TIME, IN YOUR FLIGHT

Mr. DIRKSEN. Mr. President, somewhere out of the dim past there comes to mind, this morning, one of the sweet couplets which, if I can reconstruct it, is approximately as follows:

Backward, turn backward, O Time, in your flight,
Make me a child again, just for tonight.

Mr. President, I allude to it because when the CONGRESSIONAL RECORD came to my desk this morning, I noticed that it bore, among other captions, the following:

Volume 108, Washington, Thursday, April 26, 1926, No. 65.

So, Mr. President, according to this caption, I should feel 36 years younger, and I ought to dance with joy because it has been made official by the CONGRESSIONAL RECORD. [Laughter.]

DO AMERICANS INVEST ABROAD RATHER THAN IN THE UNITED STATES BECAUSE OF THE TAX ADVANTAGES THEY MAY SECURE?

Mr. CURTIS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement I have prepared.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CURTIS

The role of a supposed tax advantage as a motivating factor in influencing management decisions with regard to the establishment of oversea subsidiaries or a domestic expansion to serve export markets has been discussed on numerous occasions. It is apparent that some of my colleagues believe that if there were no tax considerations, American firms would provide increased employment in the United States to serve oversea markets.

My review of the available data does not support this concept. On the contrary, there is ample evidence that most firms would prefer to conduct their operations in the United States, but if they are to be competitive in world markets and to have any share in expanding economies in other countries, they must often establish foreign operations of one sort or another to serve adequately these markets. It is not a question of whether manufacturing operations should be conducted in the United States or abroad, the real question is whether American industry will participate in the growth of foreign countries or whether these opportunities will be lost to well-established firms in other developed nations.

The nature of the competition American industry faces is shown by naming just a few of the major firms which are active in all world markets. They include: Mitsui, Mitsubishai, Krupp, Bayer, Hoechst, Shell, Unilever, SKF, Imperial Chemicals Industries, Montecatini, Pirelli, Michelin, British Motor Corp., Renault, Societe Generale, Brown-Boveri, Ciba, and a host of others.[1]

The distinguished junior Senator from Tennessee, during the course of his remarks on February 12, referred to data prepared by the Commerce Department to the effect that expenditures for plant and equipment abroad by United States controlled foreign operations will amount to about $4.5 billion this year. He raised the question as to "how many new jobs would such expenditures, added to our normal expenditures for domestic plants and equipment, create here at home?" He conceded that he has "no satisfactory yardstick with which to measure this." However, he then continued saying and I quote: "What a stimulus $4½ billion invested in new factories would provide for our distressed areas."

To place these expenditures for new investment overseas in a proper context, it is well to relate them to total recorded expenditures for plant and equipment in the United States.

Table No. B10 included in President Kennedy's most recent economic report to the Congress shows that in 1961 fixed investment for new construction, other than farm and residential, totaled $18.6 billion. In addition, expenditures for investments in

[1] Revenue Act of 1962, report of the Committee on Ways and Means, House of Representatives, 87th Cong., 2d sess., H. Rept. No. 1447, p. B24.

nonfarm producers' durable equipment totaled $23.4 billion.

It thus appears that the gross nonfarm, nonresidential fixed investment in 1961 in the United States was $42 billion. In this context, the $4.5 billion in new plant and equipment expenditures by American subsidiaries operating overseas was approximately one-tenth of those for such equipment here in the United States during 1961. The statistics prepared by the Department of Commerce fail to indicate what portion of the $4.5 billion that was invested by these subsidiaries comprised purchases of equipment exported from the United States. All available evidence clearly shows that American oversea plants use facilities produced in the United States that constitute a major item of our export trade.

The suggestion has been made on too many occasions that because of favorable tax treatment we export jobs. The implication of these suggested statements is that by deterring incentives for oversea operations, investment funds will therefore automatically be made available to stimulate domestic depressed areas. This theory fails to deal with the realities involved in making any investment decision whether it be the construction of a new plant in the United States or the establishment of an oversea operation.

The mere fact that the American business community spent nine times as much in improving our own plant and equipment as it invested overseas shows that there is adequate capital available for the expansion of the domestic economy. However, the decision to embark on a new project is not determined by tax considerations because, unless the enterprise is profitable and income is first produced, there will be no occasion to pay either the U.S. or foreign income taxes. The economics of all the factors involved which contribute to the probability of a new venture being profitable must be weighed in making any investment decision. These considerations include market potential, transportation costs, availability of raw materials, the size and qualifications of the available labor force, utility costs and many similar factors. The Congress has recognized this truth in enacting legislation to assist depressed areas. The administration expects it will improve their economic climate. Funds have been provided to retrain workers with obsolescent skills, to provide better access to markets and raw materials for those who presently live in these areas. If these ends are successfully achieved, there is no doubt in my mind that private investments will be made.

The junior Senator from Tennessee, in the course of his remarks on February 12, made a statement which requires clarification, and I shall quote directly from the CONGRESSIONAL RECORD of that date:

"For example, in the State of Massachusetts, from which the distinguished Presiding Officer [Mr. SMITH] hails, there has been a relative loss of population, so severe that the State is losing two of its Representatives in Congress as a result of the last census and existing law. What a stimulus would be provided for a State like Massachusetts if it received a fair and reasonable share of the $4½ billion invested in new plant and equipment abroad." [2]

Every Senator is aware of the fact that a reapportionment of the Congress is necessary whenever a decennial census shows that the population of any State as related to that of all 50 States requires either an increase or a decrease in its share of the 435 permanent seats in the House of Representatives. It is to be expected that during a 10-year period, many factors will contribute to changing rates of population growth in our 50 States. This would occur even though the United States received no imports nor exported any products regardless of the magnitude of foreign direct investments.

Neither Massachusetts' loss of relative population nor California's relative increase can be logically attributed to private oversea investments nor to any other single economic factor.

If we are to approach the question of the taxation of foreign investments in a sound manner, it is essential that everyone realize that whether a project is a domestic or foreign operation, there must be a prospect of satisfactory earnings before taxes. Unless the economics of an investment opportunity indicates that it may be profitable, no amount of special tax inducements can provide an incentive. Tax deferrals, tax credits, and the other so-called incentives for foreign investment are meaningless if the basic economics are not favorable.

The junior Senator from Tennessee in the CONGRESSIONAL RECORD of February 12 suggests that our present tax laws provide an incentive to export jobs and lure factories overseas. Mr. President, I shall quote directly from his statement in the CONGRESSIONAL RECORD of that date:

"But what about the factory which is lured abroad by a tax loophole? Who benefits from that? Surely our economy as a whole does not. A few large stockholders may benefit. A few insiders may profit from speculation.

"A few officials with large salaries earned abroad may escape completely U.S. taxes. But our national interest is injured. Payrolls are lost. People are left unemployed. The productive potential of the country is lessened. The gross national product is lessened, and our standard of living is just that much lower." [3]

I am sure that every Senator will agree that the major share of American investments in oversea subsidiaries are related to our publicly held corporations. Accordingly, there is no basis to suggest that foreign investments are established to assist a few insiders in realizing a profit from speculation, nor to state that they benefit a few officials with large salaries earned abroad "who may escape completely U.S. taxes." The Internal Revenue Service has been granted adequate powers to deal with such flagrant abuses of our laws. They were enacted in order to promote an expansion of American exports and oversea activities in competition with the efforts of citizens in other developed countries.

The junior Senator from Tennessee in his discussion of the broad question of the taxation of American controlled foreign subsidiaries makes reference to the activities of movie stars and individuals who may have purchased real estate abroad so as to lower possible inheritance taxes. He said:

"* * * It does not take very long to fly from Miami to Nassau—about 20 or 30 minutes. Yet, if an American citizen establishes a home in Nassau and has a subsidiary there from which he earns a large salary, he not only makes no tax payment to the U.S. Government, but, under the tax laws, he does not owe any on this particular income." [4]

I shall certainly support any constructive proposals to close loopholes. However, it is important that we define this term. It should be applied to those who abuse legislation which was enacted for sound public policy. Certainly no evidence has been produced which indicates that any substantial number of American executives are operating foreign subsidiaries of large publicly held corporations in this manner. Yet, the tax proposals now under discussion in the Senate Finance Committee would penalize millions of American investors in our parent corporations with subsidiaries overseas. My examination of the testimony before the House Committee on Ways and Means clearly shows that virtually every witness went on record to the effect that abuses of our tax laws should be curbed.

For example, the statement filed with the committee by Mr. William S. Swingle, the president of the National Foreign Trade Council shows a clear recognition that whatever abuses exist should be corrected without hampering legitimate business activities. It stated:

"We wish to make it clear at the outset that the National Foreign Trade Council is in complete sympathy with the desire of the administration to eliminate abuses in connection with tax haven corporations which have as their principal purpose improper avoidance of Federal income tax. However, as stated by the President in his balance-of-payments message, any legislative action to curb such abuses should be carefully drafted so as not to result in penalizing legitimate private investment and trade abroad." [5]

Another witness, Mr. Leslie Mills, general manager of the Committee on Federal Taxation, American Institute of Certified Public Accountants, unequivocally stated:

"We have no quarrel with the desire of the administration to track down and correct artificial arrangements which have tax avoidance or tax evasion as their primary motive. But we are convinced that the present proposals would have the greatest effect on American enterprises operating abroad with entirely legitimate motives and that they would do grave injury to them and to the national economy without achieving any of the stated goals and recommendations." [6]

Mr. President, reinsurance schemes, interest-free loans by a foreign subsidiary to a parent, improper allocation of income between the parent and subsidiaries and similar practices have all been condemned unequivocally. However, it is not in the national interest to suggest that because such abuses exist and they should be corrected, all legitimate and helpful oversea operations should be penalized.

Mr. President, let me make it crystal clear that the removal of present tax deferral and either the gross-up procedure recommended by the administration or the repeal of the foreign tax credit included in S. 749 introduced by the distinguished junior Senator from Tennessee on February 2, 1961, would penalize millions of American citizens who have invested in America's publicly held corporations. In many instances, the laws of other countries require that American activities overseas must be conducted through subsidiaries with substantial ownership interests by citizens of the host country and in some cases by a foreign government itself.

Under such conditions the American parent will not have the deciding voice in the dividend policy of subsidiaries. If no dividends are declared to meet these new and more onerous tax obligations, there will be no improvement in our balance of payments. Furthermore, by increasing the tax burden on domestic parent corporations which must assume the tax obligation for unremitted subsidiary earnings, there will be less available capital for investment in the United States. If this occurs, our competitive position is further weakened and job opportunities will decline.

Since so much of our attention has been directed to the activities of our larger pub-

[2] CONGRESSIONAL RECORD, Feb. 12, 1962, p. 2193.

[3] CONGRESSIONAL RECORD, Feb. 12, 1962, p. 2193.

[4] CONGRESSIONAL RECORD, Feb. 12, 1962, pp. 2192–2193.

[5] "President's 1961 Tax Recommendations," hearings before the Committee on Ways and Means, House of Representatives, 87th Cong., 1st sess., vol. 4., p. 2660.

[6] Ibid., p. 2714.

licly held corporations with oversea operations, it should be apparent that individual private citizens participate in oversea activities by their purchase of shares in domestic corporations. The obligation for the proposed new taxes will ultimately be borne by them. It is inconceivable that anyone believes that the responsible directors and officers of American corporations are unaware of the need to strengthen the competitive position of our own economy. They are also anxious to pay satisfactory dividends to their stockholders on all the funds invested in their respective enterprises. It is evident that the real interests of the American business community lie in providing the maximum return for their investors, the enhancement of America's competitive position, and the development of our own markets. These interests should not be confused with the activities of a small minority of irresponsible individuals who have abused provisions in our present tax laws.

President Kennedy in his 1961 balance of payments message stated that he would recommend to the Congress legislation to prevent the abuses of foreign tax havens as a means of tax avoidance. However, in the same message he stated:

"But we shall not penalize legitimate private investment abroad, which will strengthen our trade and currency in future years." [7]

Since President Kennedy's message was transmitted to the Congress, the administration has apparently lost sight of the penalties that are now proposed with respect to legitimate private investment abroad.

Mr. President, the Secretary of the Treasury in his review of the administration's proposals has stressed the need for tax neutrality and the elimination of abuses. Again, so that the record may be clear, let me remind my colleagues of his views with respect to foreign investment, when he testified before the House Committee on Ways and Means in July of 1959. At that time, he was the Under Secretary of State in the Eisenhower administration. Mr. Dillon then stated:

"During recent years there has been a strong upsurge in the flow of U.S. private capital to Canada and Western Europe where the creation of the Common Market is providing a new stimulus to American investment. These private investments of ours in the more advanced countries have made an important contribution to the economic strength of the free world." [8]

He also made favorable reference to a study which he had authorized made pursuant to section 413(c) of the Mutual Security Act of 1954 as amended. In referring to this study, the Under Secretary of State, Mr. Dillon said: "* * * was made under the direction of Mr. Ralph I. Straus, a distinguished American business leader." [9]

Mr. Straus also testified before the Committee on Ways and Means with respect to this study. Mr. Straus identified himself as a director of R. H. Macy and then stated:

"Recently I have had the privilege of acting as a consultant to Under Secretary of State C. Douglas Dillon for the purpose of preparing a report pursuant to section 413(c) of the Mutual Security Act of 1954, as amended, entitled 'Expanding Private Investment for Free World Economic Growth.' This report was published by the Department of State in April of this year and has been distributed to each member of the committee." [10]

Mr. Straus' report included a thorough examination of the tax laws. He recommended that tax deferral be continued. Rather than encourage American firms to operate through foreign tax havens, he urged that our laws should provide for the incorporation of foreign business corporations in the United States which would operate in the same manner as a tax haven. In fact, as most Senators remember, these proposals were embodied in a bill introduced by Representative Boggs, of Louisiana, H.R. 5, 86th Congress. Now that Mr. Dillon is the Secretary of the Treasury in a new administration, he suggests that tax deferral may be appropriate to stimulate investment in underdeveloped nations but not in the developed countries.

The recommendations of the Kennedy administration represent a drastic departure from Mr. Straus' summary of the report he made as a consultant to the then Under Secretary of State Mr. Dillon.

Mr. Straus testified that no geographic limitations should be placed on tax deferral. His testimony in 1959 deals directly with the problem now presented to the Finance Committee and I shall quote from it. He said:

"In our report we recommended that a foreign business corporation have no geographic limitations so long as it derives its income from sources outside of the United States. This is primarily because we conceived of a foreign business corporation as an instrument for the accumulation of profit for reinvestment abroad.

"The idea of profits earned from investments in Western Europe or even Canada being reinvested in the less developed areas is appealing. Also, the universal foreign business corporation would be well equipped to take advantage of the psychological fact of foreign business life which I have mentioned: the tendency of corporation directors to permit reinvestment abroad of profits earned abroad but to balk at investment abroad of domestic profits and resources.

"We also opposed any geographical limitation on the foreign activities and sources of income of a foreign business corporation because the diplomatic problems and domestic pressures involved in choosing particular countries or areas would make a general system of legislative or administrative selection very difficult. Moreover, since the foreign business corporation involves tax deferral rather than tax reduction, it is appropriate for investment both in developed and underdeveloped countries." [11]

The Kennedy administration has placed the primary responsibility for the development of tax proposals in the jurisdiction of the Assistant Secretary of the Treasury, Mr. Stanley S. Surrey. Once again, it is of some interest to review his earlier statements presented to the House Committee on Ways and Means during the 85th Congress on December 4, 1958, while a professor at Harvard University. At that time he stated that tax deferral and our existing tax credits represent concepts that have proved themselves advantageous to the U.S. Government and that they have promoted the primary aims of American foreign policy.

Professor Surrey's statement before the Committee on Ways and Means with respect to these two controversial items is so forthright and it contradicts so completely the proposals advanced by the Kennedy administration that I quote it at this point:

"Foreign tax credit accommodation to foreign source jurisdiction. While residence and nationality, including domestic incorporation, thus support income taxation, recognition must be paid to the fact that we live in one world and that the foreign income of our citizens and corporations may therefore be subject to taxation at the foreign source. The modus vivendi for that recognition under our system is the foreign tax credit mechanism. Under this credit, a foreign income tax paid is treated as payment to that extent of the U.S. tax on the foreign income, so that only a tax representing the difference between the foreign tax rate and the U.S. tax rate must be paid to our Treasury Department. It is this foreign tax credit which accommodates our need to stress nationality jurisdiction, so as to achieve the objective of equality among our citizens and corporations, with the need of foreign countries to stress source jurisdiction if they are to protect their revenue structures. The accommodation permits the foreign country of source to obtain revenue and also permits the United States to maintain the standard of equality at home since the taxpayer's tax burden is still at our domestic level (unless the foreign rate is higher than our rate). This accommodation is possible because of the revenue yielded by our Treasury Department to the extent of the credit granted. It is this foreign tax credit mechanism therefore which makes international trade and investment possible under our income tax system, and that of other mature income tax systems as well which stress equality of tax burden. While the credit mechanism is complicated, it is thus absolutely vital to our tax system.

"Tax deferral accommodation to foreign source jurisdiction. A second accommodation to international activity is represented by our grant of deferral of taxation on foreign source income until that income is returned to the United States. The mechanism of deferral is the recognition accorded to foreign incorporation. Under this mechanism, foreign subsidiaries of American corporations are treated as separate entities and thus essentially outside the reach of the U.S. tax system.

"The income of these foreign subsidiaries is thus free of U.S. tax until paid out as a dividend to the parent, or distributed in liquidation. The advantage of tax deferral is quite significant, for the investor is in effect permitted to retain our Government's share of the income and thereby increase its investment. It is an interest free loan of the amount of our tax automatically made without any security or collateral, and with the maturity determined by the taxpayer. Consider for example, the entire change in the impact of our corporate tax that would occur if a domestic corporation did not have to pay that corporate tax on its income until it was ready to pay the income out as a dividend.

"The grant of tax deferral, in addition to being a positive tax advantage to the U.S. investor abroad (the foreign tax credit in principle is not such an advantage although in application it has become so, as indicated below) represents a second significant accommodation to foreign tax systems. The foreign tax credit mechanism is an accommodation to the existence of foreign income taxes and to the needs of foreign countries to secure revenues through their income tax systems. Thus foreign countries can develop the rates of income tax on their domestic capital which they believe necessary to meet their revenue requirements and at the same time feel free to apply those rates to U.S. taxpayers without impeding investment from the United States, since the U.S. investor is protected by the foreign tax credit. The limiting factor here is the U.S. tax rate, applicable alike to our domestic and foreign investment. The accommodation of deferral permits a foreign tax system to take the opposite course, for here the limiting factor is the foreign tax rate. Hence, if a foreign tax system decides to favor domestic capital formation through either a relatively low tax rate, special income tax concessions, or even no income taxation at all, it can grant the same preference to the U.S. investor who is investing

[7] Ibid., p. 3135.

[8] Foreign Investment Incentive Act, hearings before the Committee on Ways and Means, House of Representatives, 86th Cong., 1st sess., H.R. 5, p. 78.

[9] Ibid., p. 79.

[10] Ibid., p. 240.

[11] Ibid., p. 243.

within the country through a foreign subsidiary. The grant will be meaningful since only the foreign tax system is applicable to the income of that subsidiary until the income is returned to the United States. In combination, these two accommodations accord the greatest weight possible to foreign tax systems in order to promote international trade and investment. The United States can do no more without in effect abandoning the standard of tax equality completely and thereby in effect surrendering control over its own income tax.

"This advantage of tax deferral depends today on the form which the investment takes, for it is available only to the foreign subsidiary form. It is in large part for this reason that most of our foreign investment, at least in the nonnatural resources field, is in this form." [12]

Prof. Stanley S. Surrey expressed the view that in proper perspective tax deferral and foreign tax credits provide tax equality and promote our foreign policy objectives. He concluded his statement in 1958 with an endorsement of these principles, and I shall quote from it:

"The U.S. income tax when viewed in proper perspective has achieved a balance between observance of the basic standard of tax equality among our taxpayers and necessary accommodation to the revenue claims of other countries when international activities are involved. As respects tax equality, our income tax rests tax jurisdiction on residence and nationality as well as geographical source, so that American citizens and corporations with foreign income are required to pay tax on that income. However, as respects accommodation to foreign taxing jurisdiction, the United States grants a tax credit for foreign income taxes paid and thereby permits the U.S. taxpayer investing abroad to reduce his U.S. taxpayment accordingly. It is this credit which makes foreign investment possible at all. As a further accommodation, the United States grants tax deferral to U.S. taxpayers investing abroad in foreign subsidiary form. This tax deferral is a decided advantage, for it is an interest-free loan in the amount of our tax on the foreign income, automatically granted by our Government without any security or collateral, and with the maturity controlled by the taxpayer. These two accommodations are capable of rational support." [13]

Those responsible for the major investment decisions of American enterprise with domestic and foreign operations are American citizens and with very few exceptions would much prefer to remain at home and enjoy the many benefits that characterize our way of life. Mr. Neil McElroy, the former Secretary of Defense and now chairman of the board of Procter & Gamble Co., in his testimony before the House Committee on Ways and Means said:

"I am certain that it would simplify the lives of many people in our company if we could manufacture all of our products in the United States and sell in international trade through export from this country. Unfortunately, however, this is not possible." [14]

The provisions in our tax laws with respect to the taxation of income from oversea investments were carefully formulated many years ago. The basic concepts have not changed for 49 years since the first income tax law was enacted in 1913. Our foreign trade has grown, and we enjoy a favorable balance of payments in our merchandise accounts. Furthermore, America's oversea investments have contributed to this result and the income derived from them has contributed to financing governmental programs to further our foreign policy objectives. Without the favorable balance of receipts over new investments that have characterized our direct investment activities, there would have been a very substantial deficit in our balance of payments which might have seriously jeopardized our monetary reserves.

In closing, it seems strange that the legislation under consideration by the Finance Committee would hamper direct investments by American enterprises in other countries. By direct investment I refer to the use of capital funds by American subsidiaries and branches overseas for plant and equipment.

The 11-year period starting in 1950 and ending in 1960 developed a surplus in excess of $8 billion in these transactions. On the other hand, the legislation under consideration will have little effect on other private investment activities. These include gold holdings, foreign bank deposits, and the purchase of foreign securities. Such investments over the same 11-year period resulted in a net outflow of $5.9 billion. Yet, the legislation proposed by the administration would have no measurable effect on these transactions.

I shall discuss this subject further as the Finance Committee proceeds with its consideration of amendments with respect to the taxation of foreign source income contained in H.R. 10650.

[12] Ibid., pp. 536–37.

[13] Ibid., p. 543.

[14] President's 1961 Tax Recommendations, op. cit., p. 2922.

STANDBY AUTHORITY TO ACCELERATE PUBLIC WORKS PROGRAMS OF THE FEDERAL GOVERNMENT AND STATE AND LOCAL PUBLIC BODIES

Mr. ROBERTSON. Mr. President, the Committee on Public Works has reported S. 2965, Calendar No. 1321, a bill to provide standby authority to accelerate public works programs of the Federal Government and State and local public bodies.

This bill authorizes a public works program including acceleration of Federal projects and Federal grants and other Federal grants and loans up to $2 billion. The program would be financed by using the unobligated balances of authorizations to expend from public debt receipts available for the Housing and Home Finance Agency, for loans to the Federal Savings and Loan Insurance Corporation, for loans to the Federal Deposit Insurance Corporation, for the purchase of obligations issued by the Federal home loan banks, and for payment of the subscription of the United States to the International Bank for Reconstruction and Development.

As soon as the Senate has concluded the pending business, Senator CAPEHART and I shall move to have S. 2965 referred to the Committee on Banking and Currency, so that full hearings can be held with respect to this method of financing a public works program. It may be also that, in view of the provision of the bill drawing upon funds committed for the International Bank for Reconstruction and Development, the Committee on Foreign Relations may feel it appropriate to make a similar request.

The Federal Deposit Insurance Corporation provides insurance up to $10,000 per account in about 13,450 banks in the country—about 97 percent of the country's banks. The total of deposits in insured banks comes to $260 billion, and $150 billion is actually covered by the insurance. This insurance is backed up by an insurance fund of some $2 billion built up from assessments on the banks, plus the Government's commitment to make available $3 billion by the use of borrowing authority. It is this $3 billion commitment of the Government which would be affected by S. 2965.

The Federal Savings and Loan Insurance Corporation insures savings accounts up to $10,000 per account, in the savings and loan associations belonging to the Corporation. In addition to a reserve fund built up out of premiums received from member associations, the Federal Savings and Loan Insurance Corporation insurance on savings accounts is backed up by a commitment of the Federal Government to make available $750 million. S. 2965 would dip into this fund also.

I shall not discuss this matter at length today. I believe the above information is more than sufficient to make clear my reasons for feeling that a full opportunity to testify on this bill must be given to insured banks and insured savings and loan associations and to the people whose deposits and savings would be affected.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. CASE of South Dakota. May I say to the distinguished chairman of the Committee on Banking and Currency that I personally, as ranking minority member of the Public Works Committee, feel his request is amply justified. In fact, I believe that if every Senator, regardless of which side of the aisle he occupied, realized that this bill as proposed would set a precedent for one committee to raid funds provided by authorizations of other committees, he would want to defeat that provision of the bill.

Mr. ROBERTSON. Is it not true that that provision was not in the original bill as introduced, and there were no hearings on the provision to raid trust funds of agencies authorized under the jurisdiction of the Banking and Currency Committee?

Mr. CASE of South Dakota. That is true as the bill is amended, although in its original form the bill would have permitted funding by using uncommitted appropriations, contract authorizations, revolving funds, and other authorizations to expend from corporate or public debt receipts.

Mr. ROBERTSON. But the committee spelled it out.

Mr. CASE of South Dakota. Yes, it did, as an attempt to limit it. The committee was supplied with three possible lists of funds that could be raided, even by striking out contract authorizations.

Then I asked the question whether, under mention of the revolving fund, it would be possible for the moneys in the revolving fund for the Farmers Home Administration, into which farmers paid back loans, to be used to build sidewalks in some depressed town or city. The answer was they could be, under the original language.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. CASE of South Dakota. Mr. President, may I be recognized in my own right?

The VICE PRESIDENT. The Senator from South Dakota.

Mr. CASE of South Dakota. Now, it goes the other way, funds authorized for building homes could be used for rural flood control. I agree with the Senator from Virginia that in the bill as reported here the Committee on Public Works would be violating the jurisdiction of the Banking and Currency Committee. And that would set the precedent for violating the jurisdiction of the Committee on Armed Services, the Committee on Agriculture and Forestry, and all other committees which seek to set up programs with funding provisions, to say nothing about the Appropriations Committee.

The programs to which the Senator from Virginia has alluded were specific programs, justified by that committee, approved by the Congress. Some of them I did not happen to vote for, but they were authorized by the Congress, and the use of money to be obtained by selling debentures by the various agencies to the Treasury was authorized.

Here it is proposed that the Public Works Committee should step into the domain of the Committee on Banking and Currency, to borrow the borrowing authority set up for the programs reported and handled by that committee.

We could logically, under the original authorization of the bill, step into the domain of the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Agriculture and Forestry, the Committee on Labor and Public Welfare, or any other committee where the Public Works Committee would have no original authority to propose a program. This bill proposes to establish a precedent for one committee to borrow and to raid the funds set up by the programs reported by other committees.

Mr. ROBERTSON. Why did the Committee on Public Works, of which the Senator is a member, vote to let the farmers fund out?

Mr. CASE of South Dakota. I think it was because they were alarmed when I pointed out what could happen. I did not vote to report the bill. Let me point out that every member of the minority was opposed to reporting the bill as it was reported, notwithstanding some representations in the press about a divided position. The only division of position was that, while we were all opposed to reporting the bill as it was reported, there were various cures proposed for approaching the problem, whether we should kill it all or a part of it, and so forth.

Mr. President, this is a matter which involves the jurisdiction of every committee of the Senate. It involves particularly so-called back-door financing. One might say it is proposed to set up sidedoor financing, or slidedoor financing, as we put it in the report, because it would permit funds to be borrowed from agencies not under the jurisdiction of the Public Works Committee for purposes authorized by the bill, and then authorize Congress to reappropriate to restore the impaired balances of authorizations. All the original pressures would then operate, so that we could wind up with a restoration and a double appropriation demand on the Treasury for the program originally proposed. Certainly the Committee on Banking and Currency is entitled to consider a bill which proposes to draw billions of dollars from programs which that committee originally provided.

Mr. ROBERTSON. And I want to emphasize again that this proposal does more than just take money away from programs which the Banking and Currency Committee and other committees have authorized. That is bad enough. But the bill does much worse than that.

The bill would impair the protection provided by FDIC and FSLIC for hundreds of billions of dollars worth of bank accounts and savings accounts. The good faith of the U.S. Government is committed to protect our banking system and our savings and loan system and the depositors and savers who have invested their money on the strength of the U.S. Government's commitment. We cannot withdraw from this commitment.

WHY INCREASED AID TO NASSER?

Mr. KEATING. Mr. President, I was startled and disturbed by a headline in today's New York Times—"Washington Is Receptive to U.A.R. Minister's Requests for More Aid." The article indicated Arab requests for a United States-Western European aid consortium, like that now existing for India, for a long-term U.S. agreement to supply surplus grain, and for additional credits to assist Nasser in his foreign exchange difficulties.

Mr. President, one of the reasons given for Nasser's difficulties is a blight on the cotton crop. One of the other reasons for Nasser's difficulties is undoubtedly his policy of mortgaging Egypt's cotton crop to the Soviet Union in return for Soviet weapons and equipment. Since 1956, Nasser has reputedly mortgaged up to 60 percent of the Egyptian long-staple cotton crop to Moscow. He has reportedly received up to half a billion dollars a year in military equipment from the Soviet bloc. These sales are currently on the decline, but certainly we should avoid any steps that could encourage them to increase again.

Mr. President, I am very skeptical of these efforts to buy Arab support. I have already been in touch with Secretary of State Rusk inquiring what he hopes to accomplish by this expanded aid program, and whether any guarantees have been sought that existing Egyptian resources will be put to better use. If we can say this to our friends in Latin America, we can surely also say it to Nasser.

In short, Mr. President, I do not think we should increase aid to Egypt until we have definite assurances that Nasser will not use any of this assistance, directly or indirectly, to supply himself with additional Soviet weapons, and thereby to increase the existing tensions in the Middle East. Before making long-term commitments of any kind in the Middle East, we should renew our efforts to bring about an Arab-Israeli settlement. The Middle East peace conference, which the President spoke of in the fall of 1960, is long overdue. The Middle East is also an excellent site for a pilot disarmament project.

The best way to encourage economic development in the Middle East is to put an end to the present hostilities there and thereby release available resources of the Arabs and Israel for peaceful purposes. I am fearful that the administration may be ignoring the true path to peace and trying, instead, to buy a one-sided settlement, by censuring Israel in the U.N. by ignoring Arab violations of the U.N. through economic warfare, and now by stepping up aid to Egypt.

THE INTERNATIONAL AZALEA FESTIVAL

Mr. ROBERTSON. Mr. President, yesterday it was my good fortune to accompany the Honorable Elvis J. Stahr, Jr., Secretary of the Army, to a luncheon in Norfolk, Va., where he made an outstanding address in conjunction with the current celebration of the International Azalea Festival.

This beautiful festival has been held each spring since 1954. The festival queen and her princesses are selected from among the North Atlantic Treaty Organization nations in recognition of the fact that Norfolk is the headquarters of NATO Supreme Allied Commander Atlantic. This year's queen is the lovely Miss Margaret Ann Goldwater, daughter of the distinguished junior Senator from Arizona and Mrs. Goldwater. Last year's queen was the beautiful Miss Lynda Bird Johnson, daughter of the Vice President and Mr. Johnson.

The Azalea Festival is centered on the magnificent floral display at the Norfolk Municipal Gardens, consisting of 12 miles of picturesque pathways winding through 100 fully developed and beautifully landscaped acres of gardens. I hope that many of my colleagues in this body will have the opportunity to visit the Azalea Festival this weekend.

Because of the significance of Secretary Stahr's address, I ask unanimous consent to have it inserted in the body of the RECORD at this point and I commend it to each Member of the Senate.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

NATO AND THE U.S. ARMY

(By the Honorable Elvis J. Stahr, Jr., Secretary of the Army, at the Civic Club Luncheon, Golden Triangle Hotel, Norfolk, Va.)

I am genuinely delighted to have the privilege of participating in this International Azalea Festival saluting the North Atlantic Treaty Organization and its Norfolk branch, so to speak—the Headquarters of the Supreme Allied Commander Atlantic. It is a particular privilege because a vital part of the Army's present-day mission is support of NATO. I certainly need hardly add that my pleasure in being here today is in no small way enhanced by the presence of the lovely azalea queen and her princesses and attendants. It is a tribute to the inspiration and ingenuity of the people of Norfolk that

appreciation of glorious spring flowers and beautiful young ladies has been so felicitously combined with recognition of the importance of what President Kennedy has called our central and most important defensive alliance."

That great Virginian, Thomas Jefferson, voiced the spirit of earlier generations when he said, "Peace, commerce, and honest friendship with all nations—entangling alliances with none." But times have changed. What made good sense for over a century does not make good sense today. The massive Communist threat hanging over all free nations and the awesome power of nuclear weapons make it clear that no nation can be an island, sufficient unto itself. Therefore, alliances can no longer be considered entangling—they are an absolute necessity for survival.

NATO is the quintessence of the coordinated effort of the free world to defend itself against Communist imperialism. Its formation on April 4, 1949, was the direct result of the realization on the part of nations of the Atlantic community that they faced a common danger which could best be dealt with by collective action. These nations were already united by strong bonds of respect for the rule of law and love of liberty. To safeguard their heritage during the years following World War II when Communist expansion seemed irresistible, they banded together in a common effort to deter aggression and insure peace through unity of purpose and action.

The alliance has suffered growing pains, as young organizations always do, but each internal problem has been resolved through discussion and agreement among the members. As Ambassador John K. Galbraith recently pointed out, criticism is essential in the intercourse of open societies. The measure of success of any alliance is its ability to achieve the ends for which it was designed, and NATO has passed the test with flying colors.

During the years since 1949, its usefulness in the military sphere has been proved and improved. It has been preeminently successful in its mission of preventing further Communist military incursions in Europe. Furthermore, although primarily a military alliance, NATO has contributed immeasurably to the political, economic, scientific, and cultural cohesiveness of the community—the real foundation of lasting strength and stability. Khrushchev's frequent scorching attacks upon it are additional evidence of its effectiveness—proof that he considers NATO a serious stumbling block in the Communists' path to world conquest. To the lasting credit of the member nations, NATO rises from each fiery attack like the mythical salamander, undamaged by the blast and heat.

The North Atlantic Treaty Organization performs its role on the most prominent stage in the world—Europe, the Atlantic, and the New World. The whole world is the audience. The price of failure would not be merely the closing of the show, it would be world catastrophe. On the other hand, continuation of the present successful run will set the example for other troubled areas of the world.

The U.S. Army's mission in support of NATO is to help provide it with a powerful, balanced ground capability which places the U.S.S.R. in the position of having to commit its own forces in any attempt to take over Europe. There can be no salami tactics by proxy, with Soviet satellite nations carving up Europe a slice at a time. Rather, if the Soviet Union wishes to overrun Western Europe, it must itself launch an all-out attack—a confrontation with the West which they must know could lead to the use of nuclear weapons. By so raising the threshold of deterrence, we make credible our nuclear deterrent to aggression.

In fulfillment of its NATO mission, the Army now has in Europe five full-strength divisions—three infantry and two armored—four armored cavalry regiments and a substantial number of missile battalions, as well as three battle groups on guard in Berlin. The three infantry divisions have been mechanized, and appropriate units have their full quota of M–60 tanks and M–113 armored personnel carriers. In addition, all combat elements are now equipped with the new M–14 rifle and M–60 machinegun. All are backed by a superb logistical system which insures that they can fight long as well as hard though thousands of miles from home. Furthermore, equipment has been positioned in Europe for additional divisions whose personnel can be airlifted to the Continent in a matter of days should the necessity arise.

To insure the ability of our ready-around-the-clock Strategic Army Corps to deal realistically with Communist aggression anywhere in the world, the number of combat-ready divisions in the continental United States has been increased from three to eight. This was accomplished by relieving three Regular divisions of recruit training missions and raising them to Strac status, and by bringing on active duty two National Guard divisions—the 32d Infantry of Wisconsin and the 49th Armored of Texas—which also are now in the Strac status.

In order to retain for the long pull our present force of 16 combat-ready divisions—8 overseas and 8 in the continental United States—2 new Regular divisions have been activated—the 1st Armored and the 5th Mechanized Infantry. The state of readiness of these two new divisions by the time the National Guard divisions have completed their terms of service will be such that there will be no sag in our combat-ready division structure when the guard divisions return home after their splendid service to the Nation.

The establishment of the Strike Command—while not a unilateral accomplishment—was another important achievement affecting the Army's ability to fulfill the Nation's commitments to NATO and our other alliances worldwide. Stricom unites the Army's Strategic Army Corps with principal elements of the Air Force's Tactical Air Command in a unified command under direct control of the Joint Chiefs of Staff. This new command organization substantially increases the flexibility, mobility, readiness, and striking power of the Army's Strategic Reserve Forces.

Most of the steps I have outlined have major impact at the present time on the critical situation in Europe. However, we cannot afford to overlook in any respect the tremendous significance of what is happening elsewhere. The Communist menace is worldwide, and it must be dealt with on a worldwide basis. The Army has, therefore, moved forward to bolster its ability to cope with the equally critical threat of guerrilla warfare, which is actually being waged or plotted in many areas at this very moment. The ultimate fate of freedom could well depend upon its outcome.

Premier Khrushchev has made it perfectly clear that the Sino-Soviet bloc intends to continue to wage guerrilla warfare against the free world—or, at the very least, to encourage and subsidize it—throughout the foreseeable future. He has proclaimed it not only "admirable but inevitable."

President Kennedy has made it equally clear that this Nation accepts the implicit challenge; that we are not about to stand by and let the Communists achieve their cherished goal of world domination step by step through phony wars of liberation. He has emphasized and reemphasized the fact that the buildup of the Army's counterguerrilla capability is a phase of its activities in which he is vitally interested and that it has his strongest backing.

Today the Army is performing invaluable cold war service in defense of the free world by furnishing expert training and technical assistance, as well as extensive aviation support for troop transport, observation, and resupply, to the Vietnamese in their bitter jungle and rice-paddy war against the infiltrating Viet Cong. We are continuing to press vigorously along every line to enhance further the Army's ability and readiness to give effective backing of this kind to any other free world nation similarly threatened.

Total strength—military, political, and economic—is the key to dealing with the Communists. Such strength, coupled with the iron will to use it in freedom's defense, is the immovable obstacle to the advance of the Soviet bloc.

Great strides have been made in building powerful defenses for our Nation and for the entire free world, but we must be tireless in maintaining them and continuing to enhance their effectiveness. Constant efforts to achieve a better understanding of our friends and allies—their hopes, their capabilities, and their problems—are imperative if we are to cope with the threat against us and extend the dominion of liberty and justice in an awakening and changing world.

In closing, let me say again how delighted I am to participate in this International Azalea Festival. An event such as this, focusing attention on the tremendous value of our alliances and pointing the way toward greater international cooperation for peace and freedom, helps immeasurably to advance the cause to which we are all devoted. We can upset the Soviets' cherished plan of world conquest, preserve our Nation, and build a just and lasting peace if we go forward together in the spirit of utmost realism and resolution and with a sustained sense of urgency. The stakes are high; they couldn't be higher. They involve the very soul and spirit of man.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HART in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. PHILANTHROPY RECORD

Mr. WILEY. Mr. President, U.S. philanthropy is a little heralded, but highly significant, feature of American life.

As the most advanced Nation in the world, our progress has been speeded and enriched by human compassion reflected in individual attitudes and the national spirit.

In 1961, American philanthropy—private giving for public causes—was valued at $8.7 billion, up $500 million from 1960. According to a recent report of the American Association of Fund Raising Counsel, Inc., the philanthropic sources were as follows:

Individuals, $7 billion; foundations, $625 million; business corporations, $460 million; and charitable bequests, $615 million.

The funds were distributed as follows:

Religion, 51 percent; education, 16 percent; welfare, 15 percent; health, 12

percent; foundations—paid into endowment funds, 4 percent; and other, 2 percent.

Is $8.7 billion a significant amount? Although only about 1½ percent of our gross national product, this exceeds—think of it—the gross national product of about 85 percent of the nations in the world.

Through its national policies, as well as through individual givers, the United States as a nation also has demonstrated not only a spirit of live and let live, but also a spirit of live and help live.

This, then, is not a light to be kept under a bushel.

Currently, the United States, as a leader of the free world, is involved in a life-or-death ideological struggle against communism. By relentless propaganda, the Reds attempt to paint a distorted image of U.S. citizens as exploiters, selfish capitalists, and monopolists.

The splendid record of philanthropic endeavors, however, can—in my judgment—do much to counter such propaganda and demonstrate that, despite being militarily powerful and economically far advanced, the American people also possess a warm, compassionate heart, concerned with the well-being of our fellow men.

Mr. RUSSELL. Mr. President, will the Senator from Wisconsin yield?

Mr. WILEY. I yield.

Mr. RUSSELL. The Senator from Wisconsin has made a very interesting statement. Do the figures he has cited include merely domestic benevolences, or do they also include those given by Americans throughout the entire world?

Mr. WILEY. They include only our domestic benevolences.

Mr. RUSSELL. In other words, benevolences in this country?

Mr. WILEY. Yes.

Mr. RUSSELL. Can the Senator from Wisconsin inform us of the source of the figures he has cited?

Mr. WILEY. At the moment, I cannot give the details; but they are taken from a recent report of the American Association of Fund Raising Counsel, Inc.

Mr. RUSSELL. I thank the Senator from Wisconsin.

FEDERAL AID TO EDUCATION

Mr. LONG of Missouri. Mr. President, in the 1st session of the 87th Congress, I was proud to join the distinguished Senator from Oregon [Mr. WAYNE MORSE] in sponsoring a bill for Federal aid to education. After the bill passed the Senate, our sense of accomplishment dropped considerably when the House Rules Committee tabled the bill; thus preventing further action.

Whenever the subject is brought up, I cannot help but remember President Kennedy's message on education:

> Our progress as a nation can be no swifter than our progress in education.

In an editorial on April 20 of this year, the St. Louis Post-Dispatch takes one part of the broad field of education and spells out the tragedy that occurs when a person cannot read.

Mr. President, I ask unanimous consent that the above-mentioned editorial of the St. Louis Post-Dispatch be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WITHOUT THE READ WORD

Many of our 18-year-olds cannot read. So said the president of the Carnegie Corp. here the other day, and what he said was not new. College teachers have been saying it for years. But it is still hard to comprehend.

Reading, in a sense, is more important than speaking. One might endure a lifetime of conversation and hear nothing but the dull and the tiring. Type, however, is rarely dull; and when it is, it may be discarded more rapidly than one can stride out of a room. The test comes in disciplining oneself to put aside a book or a paper. After all, there is a penalty for the pleasant vice of reading until all hours.

The addiction may be formed early. Picture books are also reading books. Fairy tales, "The Boys' Book of Heroes," the Rover Boys and their successors, if any, can be as intriguing as the classics. Then there is the challenge of the family bookshelves or, for that matter, of the movie magazines. It is deplorably easy to move from dragons to sirens. The trap lies in the indiscriminate reading of everything that comes most readily to hand, instead of going to Cooper or Melville, Dickens or Thackeray, and eventually to Gibson or Mommsen, Santayana or Aristotle.

For a lack of interest in all of these, the colleges blame the teachers—but with a kind word for remedial reading in St. Louis—and the teachers blame radio and television. But those must bore as often as they fascinate. Can part of the fault be in the young themselves? Do they have less of the question-asking curiosity regarded as characteristic of childhood? If this can be, then it is sad for the teacher who finds little to stimulate. But tragic is the lot of those who do not read. They go through the world not knowing it, oblivious to its trials and its glories, deprived of the solace and inspiration of the read word.

EASTER SERMON BY BISHOP DUN

Mr. MONRONEY. Mr. President, on Easter Sunday, Bishop Angus Dun, bishop of the Washington Diocese of the Episcopal Church, delivered his final sermon as bishop of the Washington area. His Easter message was, as usual, a great religious essay; and the sermon was heard by a recordbreaking number of persons.

Bishop Dun has served well the Washington Episcopal Diocese since he was installed as bishop in April 1944. He has given a lifetime of service to the church in many capacities—first, as a parish priest, in Massachusetts, in 1917; later, as professor of theology at the Episcopal Theological Seminary at Cambridge, and as dean of that theological seminary, from 1920 to 1940.

Since coming to Washington, not only has he aided very greatly the church activities in this area but he also has helped very much in the carrying forward of both the physical plant of the great Washington Cathedral, located on Mount St. Albans, and the church's mission of serving God in the Nation's Capital.

I ask unanimous consent that Bishop Dun's Easter, 1962, sermon be printed at this point in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

EASTER, 1962

(By Bishop Dun)

I John 5: 14: "This is the record, that God hath given to us eternal life, and this life is in His Son."

There is a familiar story in the Gospels of an elder brother, who was working in the fields some distance from his father's home. As this elder brother turned homeward at the end of his day's work, he heard the sound of music and dancing. And he asked, "What is this all about? What are they celebrating?" The answer was that his younger brother, who had been away for a long time and had almost been given up for lost, had come home. Their father was giving a party for him. That was what the music and dancing was about.

Have you ever been near a great stadium and heard the cry of 10,000 voices, and asked, "What is it? Who won?" Have you ever come into a household and found all in the house talking together with happy faces, and asked, "What's the good news?"

We humans are so made that when we find our fellows gathered and moved and crying out, we want to be part of it and we want to know what moved them. We assume that when people shout they are shouting about something. It's fun to be part of a football crowd applauding a victory, especially when the victory is our victory.

All this may seem a curious way to begin an Easter sermon. I begin this way because in all this there is something that is like Easter. On Easter Day in all the Christian churches throughout the world there is the sound of music. Flowers are gathered to deck the place of meeting. Voices are raised in songs of gladness. In some, trumpets sound. The words uttered are words of high rejoicing.

"Welcome happy morning, age to age shall say.

"Come ye faithful, raise the strain of triumphant gladness.

"Hallelujah, Hallelujah, Hallelujah."

And all this is no passing thing. It happened in the year 200; it happened in the year 500; in the year 1000, in the year 1500, in the year 1900; and in all the years between. It happened in good times and bad, in dark times and bright.

What a momentum of rejoicing. What a volume of human music and song.

This helps to explain a hard thing that has been said about Easter, yes, an almost cynical thing. It has been said that Easter is the one day when any one may attend church without incurring any suspicion that he is deeply committed to Christian faith and life.

Why is it that this hard thing can be said? It is because this is the Church's victory day. And the music that the day has called forth and the hymns that come echoing down the years draw many who have as yet found no ground for triumphant gladness. Many come to enjoy the victory songs who are not at all sure what the victory is. Many gather in the atmosphere of joy who have little inkling of a joy which the world cannot give or take away.

Yet the question is surely in order, What brought forth this shout of triumph from so many voices? What sent these hymns echoing across the years?

The preacher's task is to try to answer.

So great an effect must have had as great a cause.

Is all this the fruit of an abstract idea we call immortality? Is this the celebration of the notion that in man there is an

indestructible something called the soul that goes on and on and on? A wise man has observed that a man could be as irreligious in a hundred lives as in one. Indefinite prolongation of mere existence is hardly something to rejoice in.

Is this a celebration of the fact that in a far-off place in a far-off time a man, named Jesus, who was very good, was believed to have appeared to his friends after his death, and is now believed to be alive in some hidden part of our mysterious universe? What would that mean for me, who am not very good, or how would that change my thought or feeling about life or about the dark fact of death?

We turn to the ancient record seeking an answer, and we find this which I have taken as a text: "This is the record, that God hath given to us eternal life and this life is in His Son."

This is a kind of shorthand from a believer to other believers. It certainly needs interpretation for all save those who are very much on the inside.

This day is plainly the celebration of a life given to us men, a life made available to us, brought within our reach; a life that can be called "eternal," not passing as is everything in this world, not given over to death. This life is in one who is called "His Son," God's Son. It is in him that this eternal life is found and offered to us.

Old lovers can celebrate again and again their wedding day, rejoicing gratefully in the new life together which began for them then, and which has deepened for them in the shared joys and failures and sorrows of the years.

Evidently Easter is something like that. It is the celebration of a shared life into which people have entered, in which they have grown and found great joy, and found a promise they have dared to call an eternal promise. This life was given to them of God in Christ, made possible by His resurrection-victory.

What is this life which is in Christ?

There came into our world one, who bore the human name of Jesus. He uttered what He declared with surprising confidence and simplicity to be the truth. He lived that truth. He walked in a way, and called others to walk in that way. He talked much of life and of where it is really to be found. For Him the way, the truth, and the life were all wrapped up in one bundle.

The life that this one lived and brought into our world was constantly lived with an eternal, heavenly reference. He saw everything in the perspective of eternity. In Him the light of the eternal God shone through into our world of time. His manhood was so strong, so sure footed, so unhurried, so gentle in its strength, just because it was rooted in the eternal.

He did not have much time. What we would call His public life lasted only 3 years, at the most. In that brief time He spoke words that do not pass away At the end of His earthly days He performed a simple act. He took bread and blessed and broke it. He blessed a cup of wine and shared it He said, "Do this in rememberance of Me." And in thousands of places, on hundreds of thousands of days men have broken His bread and shared His cup.

He lived always in a presence and in a companionship not bound to any place or time. That Holy Presence was with Him amid the lilies of the fields, when He watched children playing in the streets, when He was alone at night in a garden, when He faced His enemies. This was the same Holy Presence, He said, who had been with Abraham, Isaac, and Jacob, and with the prophets across the years.

He looked on His fellow men, on the least of them, and saw a precious worth in them, which He always reverenced and called others to reverence. It was not the uncertain worth they had for other men, their economic worth or worthlessness, their political worth or worthlessness. It was the worth conferred on them by the love of the eternal Father.

He saw the things men value and cling to and trust in and try to build their lives on, and He saw that most of them are fragile and passing and insecure. He spoke to those who could hear Him, and He speaks to us of treasure in heaven and of the hidden actions on earth for which there is joy in heaven or sorrow in heaven.

All this did not make Him careless of life in the passing here and now, or contemptuous of it. All this filled life today with high meaning and promise and glory and blessedness.

This one, this Son of God, in whom was eternal life, so identified himself with those who would receive Him, and so took them up into His own life, that they began to share in it. Their lives were strengthened and cleansed and deepened.

Then, just because He would walk His way to the end; just because He would witness to His truth and the Father's without weakening; the life He had said was not to be anxiously clung to, was cruelly taken away.

Darkness fell. Those whose lives had been drawn to His in answering faith, into whose lives His life and truth had begun to penetrate, passed through dark fear that all which had come to them from Him was but a lovely mirage. They thought for a time that He and all that He was and embodied had been shut up forever in a tomb.

But just because this brief, fragile, broken human life was so indwelt by the eternal, so penetrated and filled with the eternal truth and life and love of God, the tomb was broken. The life and truth in Him was set free to live and work among men in the power of the Spirit.

And through all the ages since there have been those who have testified that He has found them and they have found Him, and in Him eternal life.

My brothers, that is what we celebrate here today and what we shall celebrate here today and what we shall celebrate till the day of doom. There is music here today and trumpets sound, because we believe they have sounded for Him on the other side. The Son has come home in triumph, not a prodigal son, but a Son who came forth from the glory of the Father to share His eternal life with us.

"This is the record, that God hath given us eternal life, and this life is in His Son."

SPACE SATELLITE COMMUNICATIONS SYSTEM

Mr. BURDICK. Mr. President, I am in accord with the fight being waged by Senator KEFAUVER and the others of us who have joined with him as cosponsors of his bill, S. 2890, to retain control and ownership of our future international space satellite communications system.

This question, which involves tremendous sums of taxpayer dollars, merits more attention and discussion by a greater number of the Members of this distinguished body than it is receiving.

For this reason, I ask unanimous consent that the statement made by Senator KEFAUVER on March 6, 1962, before the Aeronautical and Space Sciences Committee be included in the RECORD. Senator KEFAUVER has clearly outlined the reasons which necessitate support of his bill, and I urge every Senator to read it.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BEFORE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES BY SENATOR ESTES KEFAUVER, DEMOCRAT, OF TENNESSEE, ON SPACE SATELLITE COMMUNICATIONS SYSTEM LEGISLATION

Lt. Col. John H. Glenn, speaking before a joint session of Congress on February 26, characterized our space program as just probing the surface of the greatest advancement in man's knowledge of his surroundings that has ever been made. Later, in testimony before this committee, Colonel Glenn was asked what point in the development of the airplane might have been comparable to our present stage of development in the conquest of space. His reply was that we are about where the Wright brothers were after their third flight at Kitty Hawk. This view that we have just begun to discover and understand what lies before us is typical of those associated with the space program.

To date vast amounts running to many billions of dollars have been spent in the development of our space program. The great majority of this has been spent by our Government. Most of the work done so far would have to be placed in the category of research and development. A satellite communications system is only one part of the overall program, but it is a very important one. It is important because of the technical revolution it will bring about in worldwide communications, and also because it is nearing the point at which an operative system will be available for use.

It is possible to get some idea of the magnitude of the operation involved by looking at the budgets for NASA and the Department of Defense. For the 1962 fiscal year NASA will spend on space communications alone $94.6 million. In the same period the Department of Defense will spend $92 million, making a total of $186.6 million for these two agencies alone. The proposed budgets for the same two agencies for fiscal 1963 include a total of $185.4 million on space communications. In the years 1959 through 1963 NASA and DOD will have spent a grand total of more than $470 million. Although these figures are large, they are only a small portion of the billions already spent and to be spent in the future on other aspects of space research that will be of indirect benefit to the satellite communications system. It is abundantly clear that the Federal Government is the backbone of the space satellite communications program.

The immediate problem confronting us is the rapid development of a communications system which will link the entire world in radio, telegraph, telephone, and television. But this short-run urgency should not be allowed to obscure the longer term implications of space communications, nor should it overlook the necessary involvement of American foreign policy in the space communications area.

Only the narrowest possible view would conceive of the satellite system as nothing more than a means of relaying long-distance communications. As we stand on the edge of this new technology, only a complete lack of imagination could allow us to think of it as providing just another means of performing existing communications functions. We already know that this system is likely to be of great significance for meteorology, navigation, and space research. Other uses will almost certainly be developed. If there is in fact a new frontier today, it is the frontier of space. We as a nation must face that frontier with boldness, with clarity of thought, and with the understanding that it is too early to commit ourselves to an attitude or to a legal framework in the creation of a business organization that might make it difficult or perhaps impossible to

achieve for mankind the full benefits of knowledge yet to come.

Witnesses from both industry and government have testified that at present the space communications program is progressing with all haste. A spokesman for Western Union stated not only the speed but the very fact of establishing the system depends upon the amount and the speed at which research and development under NASA takes place.

For these reasons and others which I will set forth the most appropriate form of organization for the operation of a satellite communications system is a Government-owned corporation as provided by S. 2890, sponsored by five other Senators and me.

KEY ROLE OF GOVERNMENT IN ANY SYSTEM

Even if a decision were made to place ownership and control of the country's satellite communications system in private hands the Government would of necessity be required to continue its leading role in the development of the system. Under both S. 2650 and S. 2814 the Government would be required to:

1. Furnish launch vehicles.
2. Launch the satellites and provide launch crew and associated services.
3. Consult with the private corporation regarding technical specifications for satellites and ground stations and in determining the number and location of such facilities.
4. Coordinate continuing governmental research and development with the activities of the private corporation.
5. Insure that the satellite system established is technically compatible with existing facilities with which it will interconnect.
6. Insure that present and future access to the system on an equitable and nondiscriminatory basis is made available to all authorized communications carriers.
7. Preserve competition in the field of supplying goods and services to the corporation.
8. Supervise any change in the internal structure of the private corporation.
9. Insure that opportunities are provided for foreign participation in the system.
10. Insure that the corporation provides communication services to areas of the world where such services may be uneconomical, if it is determined that providing such services would be in the national interest.
11. Last, but by no means least, the Government would have to regulate the rate-making process.

S. 2814 contains a further provision, missing in S. 2650, requiring supervision of the relations of the proposed corporation with foreign governments and with international bodies. S. 2814 also provides for the designation of a certain Government official (or officials) who would have access to all corporate records, attend directors meetings and generally keep informed of the corporation's activities, while reporting to the President.

However, this governmental participation in the operation and regulation of a private corporation does not of itself tell the complete story. The Government will be a major user of any system that is developed. Although the Government will, in any event, continue the development of its own separate system for military purposes, it would normally be expected to use whatever other system is brought into being for its nonmilitary communications throughout the world. On this particular point the question has properly been raised as to whether the Government should not receive preferential rate treatment if a privately owned system is created. The suggestion is that such lower rates would in some small way help repay the vast sums of money already spent by the Government that would accrue to the benefit of any private company formed to operate the satellite system.

In view of the necessary involvement of the Government in any satellite communications system and considering the amount of taxpayers' money already invested in the program why should not this entire system be retained by the Government as part of the public domain for the benefit of all the same taxpayers who have made the system possible?

A.T. & T. DOMINANCE

S. 2650 provides for private ownership of the satellite communications system and limits the ownership to common carriers. Fears have been expressed from many sources that abuses would arise in such a scheme as a result of domination by a single carrier of the policies and operations of the corporation. To help allay these fears, S. 2650 includes a provision that each owning carrier, regardless of the amount of its investment, would be limited to equal representation on the board of directors. Surely, however, it must be obvious that where one of these carriers is clearly dominant in the field of international communications, and the others are dependent to some extent upon it, then even if all the representatives on the board of directors are equal, some are going to be more equal than others. The position of the American Telephone & Telegraph Co. in the communications field is well known. To expect the emergence of a business organization in which A.T. & T. would not exert a dominant force is unrealistic. Such a suggestion is no more appropriate than defining free enterprise like the elephant, who, dancing among the chickens shouted. "It's every man for himself."

DECREASED COMPETITION

A further danger not dealt with by either bill arises from the membership of the proposed joint venture. Under either bill, these members will be companies presently competing with each other to some extent, in both communications and in equipment manufacture. Moreover, this membership may be limited to the largest companies in these fields, since few small companies could afford the $500,000 minimum required under S. 2650, or would find it desirable to take a small minority interest in the corporation established by S. 2814. Permitting these major competitors to join together will facilitate conduct inconsistent with the antitrust laws, and will also insulate such conduct against detection for membership in the corporation will provide a perfectly proper occasion for these competitors to discuss common interests. And if anyone has doubts about the aversion to competition so prevalent among bidders today, let him merely recall the recent electrical equipment cases, as well as the numerous other recent examples of identical bidding.

Government ownership of the satellite system as envisaged by S. 2890 would lessen dependence on A.T. & T., and encourage competition in communications as well as in equipment manufacture. This could provide a great stimulus to competition and would lessen concentration. Private ownership, as proposed in either S. 2650 or S. 2814, will on the other hand increase concentration and facilitate anticompetitive conduct.

CONFLICTS OF INTEREST

Possible conflicts of interest center about the question of obsolescence and future development. There is a natural reluctance on the part of any corporation to hasten the introduction of techniques or products that tend to destroy the economic value of capital equipment that would otherwise have a longer productive life. Any private monopoly, even a Government-regulated monopoly, is in a position to implement this tendency to delay or hold back on the introduction of new developments. As an illustration of this possibility, A.T. & T. laid a multimillion dollar submarine cable in 1956, and plans to lay another in 1963; Hawaiian Telephone is participating in the construction of a cable system between Japan and Hawaii. Similarly, the satellite system proposed by A.T. & T. would involve a network of approximately 50 satellites in polar orbit at about 3,000 miles altitude. This would provide 600 telephone circuits plus television to 13 pairs of worldwide terminals. The cost would be $170 million. This proposal is made at a time when there is general agreement on the ultimate desirability of a synchronous satellite system of three satellites in equatorial orbit at 22,300 miles altitude which would provide a capacity of 1,200 channels. This would render a low orbit system obsolete.

The only way the synchronous system can realize its full economic potential is through capacity use. An investment in facilities which might be rendered obsolete by capacity use of a synchronous system, such as submarine cables or a low orbit system, will act as a deterrent to rapid development and full use of the synchronous satellite. This is because rational business policy would aim at recovery of investment in existing facilities.

INEFFECTIVENESS OF REGULATION

Both bills seek to resolve some of these problems by FCC regulations. Experience shows, however, that such hopes are not likely to be fulfilled. A recent Rand Corp. study cited by this committee's most recent staff report, shows that in the matter of rates alone, where the FCC has many years of experience, attempts to regulate A.T. & T. adequately have not been entirely successful. A.T. & T.'s system seems to be too complex for the relatively few men the FCC can put on the job. Thus, until this summer, the FCC had never even tried to regulate A.T. & T.'s oversea telephone rates.

Among other findings of the Rand study were these: FCC should not determine A.T. & T.'s actual cost of operations; regulation that has existed has been essentially a bargaining process with A.T. & T. finally agreeing to a rate reduction when the FCC has concluded that the overall rate of profit, on all of A.T. & T.'s operations, was too high; the FCC has never completed a formal rate hearing for telephone service by the Bell System.

Regulation limited to the overall rate has meant that the individual service rates have been totally unregulated and A.T. & T. has been able to charge high rates on monopolized services like voice communication, thereby subsidizing less profitable ventures in competitive areas.

Rate regulation is an area in which the FCC has knowledge. The satellite system will require regulation in wholly new areas. Moreover, enforcement of competitive bidding will be almost impossible because, as pointed out earlier, substantial ownership and control of the corporation by the investor suppliers will enable them to evade regulation.

FIRST PRIORITY

It is possible that because of the conflict of interest discussed above relating to investment in cables and a low orbit system, the establishment of a private corporation may slow research and development. Conversely, retaining all operations in governmental hands avoids this danger. Temporary Government ownership will also insure that essential research and development, the first priority, will continue at a maximum rate, even though no final decision as to ownership is made at this time. The basic fact to remember is that the great bulk of the essential research and development is not in the field of communications but in space research and in launching technology. Space research of this nature can only be carried out by the Government. Thus, private ownership at this time can do little to speed progress and may actually cause delay.

Moreover, it will always be possible to transfer the satellite system to a private company, especially as it comes closer and closer to realization. Once in private hands, however, it will be virtually impossible to return it to government ownership and control, no matter how appropriate such ownership may become.

As the House Committee on Science and Astronautics concluded in its October 11, 1961, report:

"Because of the many significant questions of public policy raised, and the absence of precedents on which to rely, the Government must retain maximum flexibility regarding the central question of ownership and operation of the system. No final decision should be made during the early stages of development which might prejudice the public interest or U.S. international relations."

THE RETURN ON INVESTMENT

When the satellite system becomes operable, it will only be because of billions of taxpayers dollars. In light of all the above factors, it is difficult to see why the fruits of these expenditures should not be fully retained by the Government for the benefit of all these same taxpayers. The statement of FCC Chairman Minow seems to indicate that the taxpayers may have to pay even more for the use of these facilities than in the ordinary public utility situation. Chairman Minow stated on Thursday that the communications carriers investing in the corporation set up by S. 2650 would be able to include this investment in their rate base. This means that an investing carrier will be able to receive dividends from its investment in the satellite corporation while at the same time earning an additional return from its own customers on this same investment.

Moreover, Chairman Minow seemed to say the same would apply to a carrier's investment in class A stock under S. 2814.

It is difficult to see why this double return is necessary, even if it may be a few years before dividends begin to flow from what all assume will be a profitable venture.

CONCLUSION

To sum up, there is no reason why we should hasten to open a Pandora's box of difficulties by establishing a private monopoly which will merge competing enterprises under the dominance of A.T. & T. The establishment of such a monopoly is unnecessary for the purpose of speeding up research, and the establishment of a working system. This purpose can only be achieved through the application of more taxpayer billions. The taxpayers should retain the fruits of these large expenditures.

In order to achieve the purposes I have outlined, five other Senators and I have introduced S. 2890. This bill provides for Government ownership and operation of the U.S. segment of a satellite communications system. The organization of the proposed Satellite Communications Authority is drawn along the lines of the Tennessee Valley Authority and other wholly owned Government corporations. This Authority will facilitate international cooperation among the governments of the world in bringing into existence a worldwide communications system. It will insure that the benefits of this great natural resource made possible through taxpayer financed research and development will accrue to the public as a whole.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 1361) for the relief of James M. Norman.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

The PRESIDING OFFICER. The question is on the so-called Mansfield-Dirksen substitute.

STOCKPILING

Mr. WILLIAMS of Delaware. Mr. President, in the past few days the former Director of the Office of Defense Mobilization, Mr. Arthur S. Flemming, has been testifying before the Symington committee in connection with the Government's action in 1955, at which time it made approximately 8,000 tons of copper available to industry.

This copper was made available partly by sales from the inventory that had been accumulated under the Defense Production Act and partly by diversion from deliveries that were scheduled to be placed in that inventory.

At the time this decision was made, copper was selling in the open market at prices considerably higher than that for which the Government had bought it. The Symington committee has criticized this action on the basis that this decision allowed these companies to gain an unwarranted windfall profit, and they have taken the position that the Government should have insisted upon delivery of its contracts at the prices for which it had been bought and that the Government in turn should have sold the copper in the open market and collected its profit thereon.

On that point I am in complete agreement with the Symington committee, and on May 27, 1955, and again on June 23, 1955, I took this same position when, in a speech delivered in the Senate, I denounced this same transaction as having given to these companies unwarranted windfall profits. My remarks at that time may be found in volume 101, part 6, pages 7192–7193 and volume 101, part 7, pages 9060–9061 of the CONGRESSIONAL RECORD.

However, in these hearings I note that, since this incident happened 7 years ago, Mr. Flemming, as well as some of the Senators, has had difficulty in recollecting the procedure by which this was handled and just who was responsible for the decisions. Therefore, in an effort to help clarify this situation, I shall incorporate in the RECORD here today a series of correspondence, most of which was exchanged between my office and the executive departments in 1955, concerning this entire transaction involving the diversion of copper from our stockpile. The first correspondence in connection with this decision is two letters dated February 25, 1955, both signed by Mr. Arthur S. Flemming as Director of the Office of Defense Mobilization, one addressed to the Honorable Sinclair Weeks, as Secretary of Commerce, and the second letter addressed to Mr. Edmund F. Mansure, Director of General Services Administration. These are the original letters in which GSA was authorized: First, to sell copper to U.S. industry from the defense production inventories; and, second, deliveries scheduled for March under the Defense Production Act could be canceled with the consent of the supplier and the approval of the Department of Commerce.

I ask that both letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEBRUARY 25, 1955.

Hon. SINCLAIR WEEKS,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: In view of the evidence you have presented of a copper shortage which threatens the copper-consuming industries with curtailment of operations and consequent unemployment and in accordance with advice of the Defense Mobilization Board, I am approving the release of copper now in the Defense Production Act inventory and copper to be delivered to this inventory through March 1955.

Accordingly, I am authorizing the General Services Administration (1) to sell to U.S. industry, copper currently accumulated in the Defense Production Act inventory including such copper as may be delivered through March 1955, and (2) to cancel deliveries for March under the Defense Production Act, wherever satisfactory arrangements can be made by your Department for the diversion of the copper to U.S. industry. The Department of Commerce will evaluate the applications for this copper on the basis of need and will certify to General Services Administration on the basis of hardship, the concerns to which the copper is to be sold or diverted and the amounts to be made available in each case.

The total quantity of copper that may be released and diverted to industry from these sources is estimated at about 8,000 short tons.

This authorization does not permit any copper to be withdrawn from the national stockpile nor any diversions from delivery directly to the stockpile.

I enclose a copy of my letter to Mr. Mansure.

Sincerely yours,

ARTHUR S. FLEMMING,
Director.

FEBRUARY 25, 1955.

Hon. EDMUND F. MANSURE,
Administrator, General Services Administration, Washington, D.C.

DEAR MR. MANSURE: In order to help relieve the current shortage of copper, the General Services Administration is hereby authorized to sell to U.S. consuming industry at U.S. market prices plus handling and transportation charges the current inventory of copper accumulated under the Defense Production Act including copper to be delivered under this authority through March 1955. In addition, deliveries scheduled for the month of March under the Defense Production Act contracts may be canceled with the consent of the supplier and approval of the Department of Commerce.

This copper shall be made available to consuming industries in the United States and only under specific instructions from the Department of Commerce.

The authorization does not permit any copper to be withdrawn from the national stockpile nor any diversion from delivery directly to the stockpile.

Enclosed is a copy of my letter to the Secretary of Commerce asking that his agency provide necessary guidance in the distribution of the copper.

Sincerely yours,

ARTHUR S. FLEMMING,
Director.

Mr. WILLIAMS of Delaware. On March 1, 1955, upon reading the announcement in the press concerning the disposal of this copper, I directed a letter to Mr. Flemming asking for more complete details on this order.

At this point I ask that my inquiry of March 1, 1955, addressed to Mr. Flemming be printed in the RECORD along with two replies—one dated March 17, 1955, signed by W. S. Floyd, Assistant Director of ODM, and the other dated March 31, 1955, signed by Charles F. Honeywell of the Department of Commerce. To Mr. Honeywell's letter is attached a list of the companies to whom the copper was sold and their addresses.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

MARCH 1, 1955.

Mr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR MR. FLEMMING: I noticed an article in the Wall Street Journal of February 28, 1955, to the effect that the Office of Defense Mobilization is selling 8,000 tons of copper from the stockpile to industry. In this connection will you please furnish me the following information:

1. The price at which this copper is being sold and the names and addresses of the buyers.

2. The cost of this copper to the U.S. Government.

a. Was it bought domestically or imported?

3. The prevailing world market price for this same grade of copper as of today.

4. Does this sale of copper represent an overaccumulation on the part of the Office of Defense Mobilization or will you be resuming buying at a later date?

5. Are there any conditions attached to the sale which would prevent the purchasers from raising the domestic price prior to the sale of the finished product?

Yours sincerely,

JOHN J. WILLIAMS.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
Washington, D.C., March 17, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Mr. Flemming has asked me to reply to your letter of March 1 regarding the 8,000 tons of copper that the Government is making available to industry to prevent curtailment of operations resulting from the copper shortage. None of the copper being released to industry is coming from the stockpile nor is any copper under contract for delivery to the stockpile being diverted to industry. The copper is being made available from the inventory accumulated under the Defense Production Act and by diversion from deliveries to this inventory in March. The attached press release gives the details on ODM's authorization for releasing this copper. The answers to your specific questions are as follows:

1. The price at which this copper is being sold and the names and addresses of the buyers.

Answer. All of the copper being released is being sold at current market prices. With differentials for shapes, these are as follows:

Wire bars: 32.8 cents per pound.
Cathodes: 32.675 cents per pound.
Lake ingot: 32.925 cents per pound.
All freight is for buyers' account.

Inasmuch as the sales to industry are being carried out by the General Services Administration under specific instructions from the Business and Defense Services Administration, Department of Commerce, I am referring a copy of your letter to that agency for an answer to your request for the names and addresses of the buyers.

2. The cost of this copper to the U.S. Government.

Answer. The copper presently in inventory, amounting to about 6,000 tons, was acquired at prices ranging from 28.66 cents per pound to 32.33 cents. Of the total, about 3,000 tons were acquired at 28.66 cents, 1,050 tons at 28.73 cents, 220 tons at 30.13 cents, 1,265 tons at 31.18 cents, about 100 tons at 31.35 cents, 150 tons at 32.33 cents, and 235 tons at 30 cents, the market price at the time of delivery.

2.a. Was it bought domestically or imported?

Answer. About 3,200 tons of the total were acquired from Canadian sources and 235 tons from Rhodesia.

3. The prevailing world market price for this same grade of copper today.

Answer. There is no prevailing world market price for copper. The price ranges from 33 cents per pound in the United States to about 42 cents in London. Prices in other markets vary between these limits.

4. Does this sale of copper represent an overaccumulation on the part of the Office of Defense Mobilization or will you be resuming buying at a later date?

Answer. The copper does not represent an overaccumulation for National Defense since the stockpile to which the copper would have been transferred for safekeeping is incomplete. This copper which is being sold at market prices, plus incidental costs, will have to be replaced at market prices plus incidental costs.

5. Are there any conditions attached to the sale which would prevent the purchasers from raising the domestic price prior to the sale of the finished product?

Answer. The copper is being sold outright only to U.S. consumers of refined copper. Prices at brass mills and wire mills, the principal consumers of refined copper, are currently being quoted on the basis of 33 cents per pound for refined copper.

Sincerely yours,

W. S. FLOYD,
Assistant Director of ODM for Materials.

DEPARTMENT OF COMMERCE,
BUSINESS AND DEFENSE SERVICES ADMINISTRATION, OFFICE OF THE ADMINISTRATOR,
Washington, D.C., March 31, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Reference is made to your letter of March 1, 1955, addressed to Mr. Arthur S. Flemming, Director, Office of Defense Mobilization, wherein you requested information relative to the sale of 8,000 tons of Government-owned refined copper to the U.S. copper-consuming industry.

You no doubt have already received this information from ODM in their letter to you dated March 17. A copy was referred to the Business and Defense Services Administration with the request to complete the information you requested under item one. Accordingly, we are attaching an up-to-date list of the company names, addresses, and amounts of copper recommended to General Services Administration to be sold to each. With the possible exception of two or three companies, it is understood that all sales have been consummated.

The difference between the 5,888 tons recommended to GSA for sale to industry and the 8,000 tons available for March is in transit and is, therefore, not available for distribution at this time.

Sincerely yours,

CHARLES F. HONEYWELL,
Administrator.

COMPANIES PURCHASING GOVERNMENT-OWNED REFINED COPPER

Circle Wire & Cable Corp., 5500 Maspeth Avenue, Maspeth, Long Island, N.Y., 300,000 pounds.

Essex Wire Corp., 1601 Wall Street, Fort Wayne, Ind., 600,000 pounds.

General Cable Corp., 420 Lexington Avenue, New York, N.Y., 1,200,000 pounds.

National Electric Products Corp., Pittsburgh, Pa., 500,000 pounds.

Southwire Corp., Carrollton, Ga., 100,000 pounds.

Triangle Conduit & Cable Co. Inc., Triangle and Jersey Avenues, New Brunswick, N.J., 650,000 pounds.

Bridgeport Rolling Mills Co., Post Office Box 818, Bridgeport, Conn., 40,000 pounds.

Reading Tube Corp., Post Office Box 126, Reading, Pa., 200,000 pounds.

Volco Brass & Copper Co., Kenilworth, N.J., 200,000 pounds.

Mueller Brass Co., Port Huron, Mich., 400,000 pounds.

Garfield Wire Division of the Overlakes Corp., 142 Monroe Street, Garfield, N.J., 80,000 pounds.

Plume & Atwood Manufacturing Co., Waterbury, Conn., 100,000 pounds.

Bridgeport Brass Co., Bridgeport, Conn., 700,000 pounds.

Revere Copper & Brass, Inc., 230 Park Avenue, New York City, 1 million pounds.

Olin Mathieson Chemical Corp., East Alton, Ill., 496,951 pounds.

Spencer Wire Corp., 555 Lehigh Avenue, Union, N.J., 160,000 pounds.

The Electric Auto-Lite Co., Toledo, Ohio, 200,000 pounds.

Cornish Wire Co., Inc., 50 Church Street, New York, N.Y., 100,000 pounds.

Royal Electric Co., Inc., Pawtucket, R.I., 100,000 pounds.

Western Electric Co., Inc., 195 Broadway, New York, N.Y., 200,000 pounds.

John A. Roebling's Sons Corp., Trenton, N.J., 200,000 pounds.

Jordan Metal Products, Inc., Jordan, N.Y., 80,000 pounds.

Specialloy, Inc., 4025 South Keeler Avenue, Chicago, Ill., 40,000 pounds.

The Miller Co., Meriden, Conn., 100,000 pounds.

Laribee Wire & Equipment Corp., 2 Main Street, Camden, N.Y., 80,000 pounds.

Riverside Metal Co., Riverside, N.J., 40,000 pounds.

United States Rubber Co., 1230 Avenue of the Americas, New York, N.Y., 400,000 pounds.

Camden Wire Co., Inc., Camden, N.Y., 70,000 pounds.

Rome Cable Corp., Rome, N.Y., 100,000 pounds.

Plastic Wire & Cable Corp., Jewett City, Conn., 60,000 pounds.

American Insulated Wire Corp., Central Avenue and Freeman Street, Pawtucket, R.I., 200,000 pounds.

Rego Insulated Wire Co., 830 Monroe Street, Hoboken, N.J., 40,000 pounds.

Sipi Metals Corp., 1720 Elston Avenue, Chicago, Ill., 40,000 pounds.

The Acme Wire Co., New Haven, Conn., 160,000 pounds.

The Okonite Co., Passaic, N.J., 150,000 pounds.

Scovill Manufacturing Co., Waterbury, Conn., 100,000 pounds.

Titan Metal Manufacturing Co., Bellefonte, Pa., 90,000 pounds.

Nonotuck Manufacturing Co., Holyoke, Mass., 40,000 pounds.

U.S. Metal Products Co., Post Office Box 1067, Erie, Pa., 40,000 pounds.

The Beryllium Corp., Reading, Pa., 40,000 pounds.

North American Copper Co., Marine Terminal, Wilmington, Del., 100,000 pounds.

The Crescent Co., Inc., Pawtucket, R.I., 80,000 pounds.

The Ansonia Wire & Cable Co., Post Office Box 233, Ansonia, Conn., 50,000 pounds.

Sandusky Foundry & Machine Co., West Market Street, Sandusky, Ohio, 40,000 pounds.

Owl Wire & Cable, Inc., Post Office Box 186, Eastwood Station, Syracuse, N.Y., 80,000 pounds.

Lewin-Mathes Co., 1111 Chouteau Avenue, St. Louis, Mo., 150,000 pounds.

Crescent Insulated Wire & Cable Co., Inc., Trenton, N.J., 40,000 pounds.

Wisconsin Centrifugal Foundry, Inc., Waukesha, Wis., 40,000 pounds.

Dover Wire Co., 1 Trenton Avenue, Clifton, N.J., 40,000 pounds.

Collyer Insulated Wire Co., Inc., Pawtucket, R.I., 50,000 pounds.

Waterbury Rolling Mills, Inc., Waterbury, Conn., 40,000 pounds.

General Electric Co., 570 Lexington Avenue, New York, N.Y., 100,000 pounds.

Kenmore Metals, Jersey City, N.J., 40,000 pounds.

Central Cable Corp., Jersey Shore, Pa., 200,000 pounds.

Narragansett Wire Co., 541 Pawtucket Avenue, Pawtucket, R.I., 50,000 pounds.

Phelps Dodge Copper Products Corp., 40 Wall Street, New York, N.Y., 600,000 pounds.

Nehring Electrical Works, De Kalb, Ill., 200,000 pounds.

Clendenin Bros., Inc., 4309 Erdman Avenue, Baltimore, Md., 40,000 pounds.

Barth Smelting Corp., 99–129 Chapel Street, Newark, N.J., 40,000 pounds.

Copperweld Steel Co., Frick Building, Pittsburgh, Pa., 60.000 pounds.

Colonial Wire & Cable Co., Inc., 480 Forest Avenue, Locust Valley, Long Island, N.Y., 50,000 pounds.

The Brush Beryllium, 4301 Perkins Avenue, Cleveland, Ohio, 40,000 pounds.

Warren Wire Co., Pownal, Vt., pending.

Talco Metal Products, Inc., 1841 North Second Street, Philadelphia, Pa., 30,000 pounds.

Falcon Foundry Co., Lowellville, Ohio, 20,000 pounds.

Federated Metals Division, American Smelting & Refining Co., 120 Broadway, New York, N.Y., 40,000 pounds.

Columbia Cable & Electric Corp., 255 Chestnut Street, Brooklyn, N.Y., 40,000 pounds.

Southern Electrical Corp., Chattanooga, Tenn., 40,000 pounds.

Ettco Wire & Cable Corp., 46–50 Metropolitan Avenue, Brooklyn, N.Y., 40,000 pounds.

Whitaker Cable Corp., North Kansas City, Mo., 40,000 pounds.

Total, 5,888 tons.

Mr. WILLIAMS of Delaware. On May 24, 1955, I directed a further inquiry to the Comptroller General, Mr. Campbell, requesting more detailed information concerning this decision of the Government to sell or divert copper from its stockpile. I particularly requested the Comptroller General to furnish an estimate of the profits which would have accrued to the Government had they accepted delivery and then sold this copper to the domestic industry. I asked for his comment as to the propriety of the manner in which this had been handled

On May 26, 1955, I received his reply. With this were enclosed copies of two letters—one dated April 18, 1955, and one dated May 6, 1955—both signed by Mr. Philip Charam, Audit Manager of the General Accounting Office, and addressed to Mr. A. J. Walsh, Commissioner of the Emergency Procurement Service of the General Services Administration.

Both of these letters commented directly upon the Government's cancellation of delivery requirements of copper that had been due under certain DPA contracts.

The first letter discussed the cancellation of contracts with the Miami Copper Co., the Copper Range Co., and the Howe Sound Co. I quote the concluding paragraph of Mr. Charam's letter in connection with the manner in which the contracts with these three companies had been handled.

We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken.

In the second letter, dated May 6, Mr. Charam criticized the handling of contract No. DMP–83 with the Banner Mining Co., of Tucson, Ariz. He ends the letter with this statement:

On the basis of the facts available to us, we consider that amendment No. 2—

Amendment No. 2 was an amendment to the original Banner Mining Co. contract—

was decidedly advantageous to the contractor and disadvantageous to the Government. We would appreciate receiving your explanation as to the basis upon which it was determined that the execution of the contract amendment No. 2 was in the best interests of the Government.

Both letters were signed by Philip Charam, Audit Manager of the General Accounting Office.

Mr. President at this point I ask unanimous consent that my letter to the Comptroller General and his reply thereto, along with the enclosures, may be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 24, 1955.

Mr. JOSEPH CAMPBELL,
Comptroller General of the United States, General Accounting Office Building, Washington, D.C.

DEAR MR. CAMPBELL: Do you have a report on the activities of the Defense Production Administration with reference to the stockpiling of copper? If so, I would appreciate receiving a copy.

Also, if the DPA has canceled or assigned any contracts with the understanding that the tonnage be sold to domestic consumers please furnish whatever information you have regarding the DPA purchase price and the domestic market at the time of cancellation, along with a breakdown of the name of the companies and the tonnage involved.

Do you have an estimate of the loss of profits which would have accrued to the Government had they accepted delivery and then sold it to the domestic consumers? I would appreciate receiving this report along with any other information you may have pertinent to the stockpiling program of copper.

Your sincerely,

JOHN J. WILLIAMS.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 26, 1955.

Hon. JOHN J. WILLIAMS,
U.S. Senate.

DEAR SENATOR WILLIAMS: Reference is made to your letter dated May 24, 1955, requesting to be advised if the General Accounting Office has a report on the activities of the Defense Production Administration with reference to the stockpiling of copper. We have not prepared a report of the activities which you mention. However, we have had communications with the General Services Administration on the subject. For your information we are enclosing a copy of a letter dated May 6, 1955, from the General Accounting Office to the Commissioner, Emergency Procurement Service, General Services Administration, dealing with a contract with Banner Mining Co., Tucson, Ariz., providing for the development of properties and delivery by May 1, 1957, of some 12 million pounds of refined copper to the Government at a fixed above-the-market price of 31 cents per pound. To date no reply has been received from this letter.

Also, we are enclosing copy of a letter dated April 18, 1955, concerning the diversion of copper deliveries from the Government to consuming industries, pursuant to authorization by the Director of Office of Defense Mobilization dated April 1, 1955. There is also enclosed a copy of reply of the Comptroller, General Services Administration, dated May 3, 1955.

It is believed that the questions raised in your letter of May 24, 1955, are answered in the copies of correspondence that are enclosed.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

GENERAL ACCOUNTING OFFICE,
Washington, D.C., April 18, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service, General Services Administration.

DEAR MR. WALSH: In our review of the Defense Production Activity of GSA, we have noted that GSA has been authorized by the Director of the Office of Defense Mobilization, pursuant to letter dated April 1, 1955, to sell to the copper consuming industries any copper delivered to the DPA inventory during the second calendar quarter of 1955, at the direction of the Department of Commerce. Sales in this catagory are directed to be made at the U.S. market prices plus handling and transportation charges. It appears that the principal deliveries of copper to the DPA inventory during such period will be made pursuant to the terms of two Canadian contracts and will cost DPA either 27 cents or 30 cents per pound. Assuming that the current market price of 36 cents per pound remains steady, sales of such copper would yield a substantial profit to DPA.

Pursuant to this same ODM authorization we note that you have offered to cancel delivery requirements of copper due under certain DPA contracts during the second calendar quarter of 1955, provided the quantities so canceled are sold by the producers to U.S. consumers designated by the Government. Your office made proposals of cancellation, by telegrams dated April 8, 1955, to the following:

Miami Copper Co., contract No. DMP–57.
Copper Range Co., contract No. DMP–89.
Howe Sound Co., contract No. DMP–92.

Under terms of the above contracts, the producers are required to deliver copper to DPA at prices ranging from 27.35 cents to 32 cents per pound, which are below the current market price of 36 cents. Therefore,

in contrast with the prospective profits to be made by DPA through sales from its inventory, the proposed cancellations would result in substantial windfalls to the three contractors and would deny such profits to the Government. We do not consider that any such windfalls and loss of profits to the Government were contemplated under the ODM directive.

We estimate the total profits which could be lost by GSA in this manner to be approximately $400,000, assuming that the current market price remains steady.

We are of the opinion that this situation, which is clearly disadvantageous to the Government, can be administratively rectified by your office. We will appreciate your prompt consideration of this matter and your advice as to any corrective action taken.

Sincerely yours,

PHILIP CHARAM,
Audit Manager.

GENERAL ACCOUNTING OFFICE,
Washington, D.C., May 6, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service, General Services Administration.

DEAR MR. WALSH: In our audit of defense production activities of GSA we have reviewed contract No. DMP–83 with Banner Mining Co., Tucson, Ariz. This contract, executed May 26, 1953, provided for development of mining properties and delivery by May 1, 1957, of 12,960,000 pounds of refined copper to the Government at a fixed above-the-market price of 31 cents per pound. The contract also authorized advances to be repaid from production.

By letter dated January 10, 1955, the contractor requested authority to sell not more than 6 million pounds of copper on the open market, with the understanding that this quantity would be ultimately delivered to the Government by May 1, 1957. He further proposed that repayment of the advances would continue during the period of diversion, that a minor concession in pricing would be granted to the Government, and that the contractor would reserve the right to make deliveries to the Government instead of to industry at any time that market prices were at such a level as to make such deliveries more profitable to him. In other words, the contractor proposed that floor price protection be continued, but that he be permitted to profit through sales to industry in the event of a rise in the market.

On January 21, 1955, your office informed the contractor that his proposal did not provide sufficient consideration for the Government, and proposed a reduction of ¾ cent per pound in the price of certain shapes of copper and of ⅜ cent per pound in cathodes, for the remaining quantity to be delivered. These conditions were accepted by the contractor and amendment No. 2 was executed on March 4, 1955, effective January 25, 1955.

At the time that amendment No. 2 was executed the market price of copper had risen to 33 cents per pound, so that it should have been apparent that the contractor would make a windfall. Moreover, although the present market price of 36 cents could not have been forecast, there were strong indications of a continued rise which would have enabled GSA to more than offset the costs of supporting the contract price of 31 cents in the past.

Through waiver of its rights to receive immediate deliveries of copper at the fixed contract price of 31 cents, the Government has obtained price concessions under which it could save about $30,000 on future deliveries of about 9,900,000 pounds of copper. On the other hand, had deliveries been made in accordance with the original contract terms, this copper could have been sold at a profit which we estimate at $250,000, assuming that the present market price remains steady. In addition, through deferment of deliveries GSA has assumed a risk that there might be a pronounced drop in the market at the time of future deliveries, which would result in payment of substantial subsidies.

On the basis of the facts available to us, we consider that amendment No. 2 was decidedly advantageous to the contractor and disadvantageous to the Government. We would appreciate receiving your explanation as to the basis upon which it was determined that the execution of contract amendment No. 2 was in the best interests of the Government.

Sincerely yours,

PHILIP CHARAM,
Audit Manager.

Mr. WILLIAMS of Delaware. Mr. President, upon receipt of this information, on May 27, 1955, as appears in the CONGRESSIONAL RECORD, volume 101, part 6, pages 7192 and 7193, I outlined the details of these transactions and denounced the results of the Government's decision as having in effect given an unwarranted windfall profit to the three companies mentioned in the first letter.

At that time I took the same position the Symington committee is taking today; namely, that the Government should have taken delivery of the copper and then sold it direct to industry and taken the profit for the Government. I saw no reason why the Government should not have had the profit resulting from the market rise. Had there been a loss the Government would have had to take it.

At this point I ask unanimous consent that there may be printed in the RECORD an article published in the Wall Street Journal of March 29, 1955, which was during the period when the copper was released by the Government. This article shows that the domestic price of copper was being boosted by 3 cents a pound.

This rise came on top of an already very strong market.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRICE TAGS—PHELPS DODGE AND ANACONDA BOOST COPPER BY 3 CENTS A POUND TO 36 CENTS—KENNECOTT STILL TO ACT; QUOTATION IS HIGHEST IN UNITED STATES SINCE WORLD WAR I

NEW YORK.—Two major copper producers raised the price of copper by 3 cents a pound to 36 cents, effective with shipments today.

Phelps Dodge Corp., the Nation's second largest producer of the metal, initiated the advance. It was quickly followed by Anaconda Sales Co., selling subsidiary of Anaconda Copper Mining Co.

Some custom smelter firms also followed the upturn, but Kennecott Copper Corp., the largest producer of the metal, so far has not taken any action on its price.

The current increase of 3 cents is the second such advance this year. The previous 3 cent increase to the 33-cent level was put into effect at the end of January. The price had held at 30 cents a pound since April 1953.

Industry men say the current U.S. price of 36 cents a pound is the highest quotation for domestic copper since World War I. At one time during that period the price for the metal was 36 cents a pound or a bit higher.

The latest advance in price had been predicted by trade sources for the past few weeks as domestic demand increased, supply tightened, and prices in London and the world markets soared to levels far above the U.S. quotation.

Last week, the price on the London Metal Exchange hit a record of 46 cents a pound, 13 cents above the 33-cent U.S. price. The markets abroad for several months have been consistently above the American price, and these higher quotations have been attracting much foreign copper to these consumers and away from U.S. users.

The Central Bank of Chile has been selling Chilean copper to the higher paying European markets for as much as 40 cents to 42 cents a pound, while selling to U.S. consumers at the domestic price.

The Chilean Government's dissatisfaction with the 30-cent price for copper, it is understood, was responsible for the rise to 33 cents earlier this year. Similarly, it has been reported, Chile wanted to get more for its copper sold to the United States because of the steadily widening gap between American and European copper prices. The 36-cent price has been most mentioned as Chile's immediate goal.

A year ago at this time, copper was in oversupply. Large U.S. copper producers cut production by about 20 percent as consumers stayed out of the market. Chile had an estimated surplus of 180,000 tons, the result of holding out for an approximate 36½-cent price in the world market.

The change to a more balanced supply began when the U.S. Government around mid-1954 took 100,000 tons of the Chilean surplus for the stockpile at 30 cents a pound. Chile disposed of the remainder in the foreign market.

Subsequently, a series of strikes at major copper mines in the United States and Chile that started in August last year and continued into October, created a severe shortage. This caused the U.S. Government to release about 41,000 tons to industry in the final 3 months last year.

On January 3, 1955, a strike at the big northern Rhodesian mines in Africa shut them down for more than a month. This accentuated the world shortage, and added incentive to soaring prices for the metal in London.

Mr. WILLIAMS of Delaware. Mr. President, on May 27, 1955, I directed a further inquiry to Mr. A. J. Walsh, Commissioner of the Emergency Procurement Service of the General Services Administration, asking for complete details on the handling of the General Services contract No. DMP–83 with the Banner Mining Co. of Tucson, Ariz.

On June 10, 1955, I received a reply from General Services Administration signed by Mr. Walsh furnishing the information requested, and I ask unanimous consent that this correspondence be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 27, 1955.

Mr. A. J. WALSH,
Commissioner, Emergency Procurement Service, General Services Administration, Washington, D.C.

DEAR MR. WALSH: With reference to the Defense Production Activities of the General Services Administration, contract No. DMP–83 with the Banner Mining Co., Tucson, Ariz., dated May 26, 1953, providing for the delivery of 12,900,000 pounds of refined copper by May 1, 1957, at a fixed price of 31

cents per pound, will you please furnish me the following information:

1. The prevailing market price of similar copper on the date of the contract.

2. The total amount of copper delivered under the contract, along with dates.

3. The total amount of advanced payments or loans (or guaranteed loans) made to this company either through your agency or through any other Government agency for the purpose of development and mining expenses.

4. A copy of the financial statement of the company as of the date the contract was negotiated or the loans were made.

5. Has this company been released from the delivery of any copper due the Government under the terms of the contract?

(a) If so, how much was released and what was the prevailing market price on the date of the release?

Yours sincerely,

JOHN J. WILLIAMS.

GENERAL SERVICES ADMINISTRATION
EMERGENCY PROCUREMENT SERVICE,
Washington, D.C., June 10, 1955.

Re contract No. DMP-83, Banner Mining Co.
Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: In accordance with your request of May 27, 1955, the following information is furnished relative to this contract:

1. The prevailing market price of similar copper on the date of the contract, May 26, 1953, was 29.65 cents per pound, freight on board refinery, subject to a discount on cathodes of one-eighth cent per pound.

2. The total amount of copper delivered to the Government under the contract up to this time, with dates of delivery, is listed on the enclosed sheet.

3. The total amount of advance payments against production made to this company by DMPA for development and mining expenses was $473,665. We have no knowledge of any other Government advances or loans except an exploration loan made by DMEA on June 30, 1951 which, reportedly, totaled $55,529.81.

4. Enclosed are copies of two balance sheets of Banner Mining Co., one dated September 30, 1952, which accompanied the application for the contract, and the other, dated September 30, 1953. The first advance of moneys under this contract was authorized on January 13, 1954.

5. (a) As a result of negotiations Banner Mining Co. on January 21, 1955, was authorized, commencing January 16, 1955 (this date, later, was changed to January 25, 1955) to deliver up to 6 million pounds of copper to its commercial customers, provided that the total amount of copper deliverable to the Government of 12,960,000 pounds and the termination date of the contract remained unchanged; provided further that the remaining copper deliverable to the Government after January 25, 1955 be reduced in price one-fourth cent per pound, plus an additional one-eighth per pound on cathodes; and again further that the 3½ cents per pound of copper repayment of the advance be made on all copper sold.

(b) The market price of copper on January 21, 1955 was 29.7 cents per pound, freight on board refinery, subject to a discount on cathodes of one-eighth cent per pound.

If you desire any further information relating to this contract, we shall be glad to furnish it to you.

Very truly yours,

A. J. WALSH,
Commissioner.

Mr. WILLIAMS of Delaware. After reviewing this additional information, on June 23, 1955, as appears in the CONGRESSIONAL RECORD, volume 101, part 7, pages 9060 and 9061, I summarized this transaction and denounced the decisions of the General Services Administration and the Office of Defense Mobilization and pointed out that in return for what in effect was a $30,000 concession, the Banner Mining Co. had been extended an approximate $250,000 windfall profit.

I noted that the Comptroller General had also criticized the manner in which this contract had been handled.

I quote from his report:

On the basis of the facts available to us, we consider that amendment No. 2 was decidedly advantageous to the contractor and disadvantageous to the Government.

On March 7, 1956, I directed another letter to Mr. Flemming, Director of the Office of Defense Mobilization, asking for additional information concerning any other deferments which may have been granted in the delivery dates of certain contracts under which they had been purchasing copper for the stockpiling program.

The letter was sent for the purpose of finding out whether or not this practice was being continued. In his reply under date of April 12, 1956, Mr. Flemming pointed out:

All deferments of deliveries of copper to the Government have been authorized at the request of the Department of Commerce and after consultation with the Defense Mobilization Board.

I quote further from Mr. Flemming's letter:

Following your criticism last spring of the cancellation of certain copper contracts, with which criticism we agreed, we took steps to correct the situation and have avoided any repetition of such actions.

Thus, in this letter Mr. Flemming stated that following my criticism of the earlier procedures they had taken steps to correct the situation and that they had avoided any repetition of such actions.

I ask unanimous consent that this correspondence be printed in the RECORD. I note that with Mr. Flemming's letter a list is attached showing deferrals and cancellations of deliveries of copper to the stockpile and Defense Production Act inventory.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 7, 1956.

Mr. ARTHUR S. FLEMMING,
Director, Office of Defense Mobilization,
Washington, D.C.

DEAR MR. FLEMMING: It is my understanding that as a result of the increased price on copper your agency granted several deferments in the delivery dates of certain contracts under which you were purchasing copper for the stockpiling program.

Will you please furnish a list of such deferments including the amount of tonnage involved and the original price along with any revisions, either upward or downward, on price or tonnage.

Yours sincerely,

JOHN J. WILLIAMS.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., April 2, 1956.

Hon. JOHN J. WILLIAMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: This is in reply to your letter of March 7 in regard to deferment of delivery dates of copper contracts under the stockpile program.

All deferments of deliveries of copper to the Government have been authorized at the request of the Department of Commerce and after consultation with the Defense Mobilization Board. They have been based on Department of Commerce estimates that the available supply of copper would be inadequate to meet U.S. industry demands. They have been prompted by the shortage in copper available to U.S. industry rather than price rises.

Deferments have been authorized at various times since the fourth quarter of 1954 and are summarized in the attached table. You will note that there have been no outright cancellations since the second quarter of 1955. Following your criticism last spring of the cancellation of certain copper contracts, with which criticism we agreed, we took steps to correct the situation and have avoided any repetition of such actions.

Please let me know if we can be of any further assistance.

Sincerely yours,

ARTHUR S. FLEMMING,
Director.

Deferrals and cancellations of deliveries of copper to stockpile and Defense Production Act inventory, Oct. 15, 1954, to Dec. 31, 1955

[In short tons]

Contract No.	Contracting company	Contract price per pound	1954 4th quarter	1955 1st quarter	1955 2d quarter	1955 3d quarter	1955 4th quarter	1956 1st quarter estimate
	Stockpile contracts: Deferrals:							
GS-OOP-3870	British Metals	[1] $0.30	3,350	----------	7,050	----------	----------	----------
3889	Consolidated Coppermines	[1] .32	900	----------	----------	----------	----------	----------
3785	do	[1] .32	1,200	----------	----------	----------	----------	----------
3906	Granby Consolidated	[1] .30	2,000	----------	750	----------	----------	----------
7201	International Metals & Minerals.	[1] .30	600	----------	----------	----------	----------	----------
7244	do	[1] .30	600	----------	----------	----------	----------	----------
7202	American Metals	[1] .30	4,000	----------	----------	----------	----------	----------
10332	Miami Copper	[2]	3,897	----------	2,721	----------	2,245	190
3909	Calumet & Hecla	[3] .315	3,965	----------	----------	----------	----------	2,250
461	Sherritt Gordon	[2]	----------	----------	----------	----------	----------	625
	Total	----------	20,512	----------	10,521	----------	2,245	3,065

See footnotes at end of table.

Deferrals and cancellations of deliveries of copper to stockpile and Defense Production Act inventory, Oct. 15, 1954, to Dec. 31, 1955—Continued

[In short tons]

Contract No.	Contracting company	Contract price per pound	1954 4th quarter	1955 1st quarter	1955 2d quarter	1955 3d quarter	1955 4th quarter	1956 1st quarter estimate
	Defense Production Act contracts:							
	Deferrals:							
DMP 80	International Nickel	[4] [5] $0.27					800	
83	Banner Mining	[2] .3075					1,250	1,000
89	Copper Range	.31			139	599	398	
92	Howe Sound	.315			300	440		
94	Appalachian Sulphide	.306				1,000	1,000	
	Total				439	2,039	3,448	1,000
	Cancellations: [6]							
DMP 57	Miami Copper	[4] .2735	689		961			
89	Copper Range	.31			325			
92	Howe Sound	.315	1,337		613			
	Total		1,826		1,899			

[1] Less ¼ cent per pound if cathodes. [2] Market. [3] Subject to renegotiation.
[4] Plus escalation. [5] Canadian currency rates. [6] See attached notes pertaining to cancellations.

NOTES PERTAINING TO CANCELLATIONS

Fourth quarter, 1954—DMP–57, Miami Copper:

Inasmuch as this contract covered the entire production from one low grade mine operated by Miami Copper Co., the deferrals were added to the end of the delivery schedule. However, the contract permitted Miami to cancel if costs exceeded the contract price. Miami canceled the balance of this contract, including deferrals as of August 31, 1955. The escalated contract price of this contract at the time of its cancellation was 29.339 cents per pound.

DMP–92, Howe Sound:

Inasmuch as the contract price (31.5 cents) was higher than the market price (30 cents) at that time, the fourth quarter deferrals were canceled on January 12, 1955.

Second quarter, 1955—DMP–57, Miami Copper; DMP–89, Copper Range; DMP–92, Howe Sound:

Cancellation of the diversions to industry from Defense Production Act contracts in the second quarter of 1955 was authorized. However, this authorization was withdrawn on May 27, 1955. The diversions during April and May were canceled. The diversions during June were deferred. The market price during the second quarter 1955 was 36 cents per pound.

Mr. WILLIAMS of Delaware. Mr. President, I recognize that incorporating this series of correspondence in the RECORD is somewhat of a duplication in that all of it has been summarized and much of it has been incorporated in my earlier remarks in the CONGRESSIONAL RECORDS of May 27, 1955, and June 23, 1955; however, since attention is again being focused upon this transaction and since some of the representatives of both the legislative and executive branches are having difficulty in remembering some of the details, I felt that it may help all interested parties in developing a clearer understanding of this entire transaction if this correspondence were all incorporated in the RECORD at this time.

WARM HOSPITALITY A HOT WEAPON IN THE COLD WAR

Mr. YARBOROUGH. Mr. President, American tourists have always spent more in foreign countries than foreign visitors have spent in the United States, and a travel gap has existed in the balance of international payments.

The gap increases from year to year.

The Congress passed the International Travel Act of 1961, of which I have the honor to be a coauthor, to place more emphasis on the promotional aspects of the tourist industry, and now the U.S. Department of Commerce is working at home and abroad—encouraging active participation of States in a sweeping program to attract more tourists.

Under the able direction of Secretary of Commerce Luther A. Hodges and Director Voit Gilmore, the United States has rolled out the welcome mat to foreign visitors to our shores.

The Saturday Evening Post discussed the importance of this tourist attraction program in an editorial on April 14, 1962. I ask unanimous consent to have printed in the RECORD the Saturday Evening Post editorial entitled "A Warm Weapon in the Cold War."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A WARM WEAPON IN THE COLD WAR

Few people accuse Uncle Sam of being a bad businessman, but in one respect he has been as backward as a Bedouin. Until a few months ago he was overlooking one of the country's most salable items—tourism. While other alert countries have been happily raking in great sums by tapping the yearning of people everywhere to travel in foreign places, the Yankee trader has been sleeping on the sidelines.

It isn't that Americans don't like the idea of traveling. Last year 2 million of us went overseas and spent a whopping $2 billion. Without much encouragement from us, about 600,000 foreigners came here and spent $900 million. The result was an unfavorable "travel deficit" of $1,100 million.

In the past when the United States spent more abroad than it took in, this imbalance was unimportant. But now that our military bases and other foreign-aid commitments cost us between $3 and $4 billion more than we net from export trade, the situation can no longer be ignored. In fact, we must either export more or abandon some of our oversea positions in the cold-war struggle.

As almost all nations except America have learned, one of the easiest ways to earn foreign exchange is from tourists. Some nations—Mexico is an example—find it their No. 1 source of revenue. But although for many countries tourism is merely a means of assuring a higher standard of living, for us it is more important. In view of our pivotal position in the East-West struggle and the need for funds to finance it, our hospitality takes on the importance of a cold-war weapon.

Although Americans are among the most generous and hospitable of people, they have not made things easy for visitors. They have done none of the things that foreigners have done to make travel attractive in their countries—the waiving of visas, the cursory customs examinations, the special reductions on gasoline, the ease of changing currency, the discounts on export items and the magnificent organization everywhere that makes visitors feel welcome, even though the visitors don't speak the country's language.

Until a few months ago we not only demanded that foreigners have U.S. visas but we made them fill out four-page forms, asking such insulting questions as whether they planned to come to this country for immoral purposes. Because we had never been prepared for the visitor who was not an immigrant, we seemed unfriendly. For example, not long ago a French couple, trying to exchange their currency in a Midwest town, was jailed on suspicion of trying to pass phony money. In a Southern State another couple was arrested for using an international driving license—a permit which is legal almost all over the world and was legal in the State in which they were traveling.

Our Government has spent little to lure visitors to our shores. As late as 1960 we ranked 23d among the 25 countries spending money to promote international travel. Only Cyprus and San Marino spent less than we. England spent 50 times as much as we did; Russia 20 times.

Last year Congress became aware that always being the paying guest and rarely the host was bad business. It was pointed out that, if a community attracts only a couple of dozen tourists a day throughout the year, it benefits as much as if it acquired a new industry with a payroll of $100,000 a year. Consequently in June 1961, the U.S. Travel Service was set up under the Department of Commerce. The budget for the first year was $2,500,000—a smaller sum than the Bahama Islands (population 136,000) spends, but enough to break the ice.

Although the new service won't be a year old until June, much has been accomplished already. Ten travel offices have been opened abroad. Sixty friendly receptionists have been stationed in 12 gateway cities—pretty girls who speak three or four languages and help tourists with the formalities. Customs officers have been classified according to language abilities and are giving a new courtesy to our inspection service. The four-page visa-application form has been reduced to postcard size and the insulting questions removed. In fact, redtape has been slashed so drastically that 80 percent of all visas are now issued in less than a half hour.

The Government and officials can do only so much, however. States, cities, and private citizens must get into the act. Communities are urged to set up International Visitors' Councils to coordinate all agencies interested in the welfare of the traveler. Homes should be opened to oversea guests. In Cleveland one woman receives all foreign visitors who wish to take coffee with her and see what an American home is like. "There are so many misconceptions about this country and its culture," she says. "How many Europeans know, for example, that more Americans go

to symphony concerts than baseball games each year?" In Philadelphia a group of retired military officers and well-to-do citizens, known as Arms of Friendship, Inc., have been opening their homes to Russian tourists in an effort to thaw the cold war. Their idea has caught on and has already spread to 10 other cities.

Many communities have found it useful to develop "language banks," pools of persons who speak foreign languages and are willing to act as guides and interpreters. In Annapolis, Md., a check revealed that there were persons speaking 24 different languages who were willing to donate their services to tourists. In Asheville, N.C., the hometown of the late Thomas Wolfe. signs were put up bidding foreign visitors "welcome" and urging them to call certain telephone numbers for a guide or interpreter.

The Asheville signs, incidentally, had an immediate payoff. A Munich professor of literature, a Thomas Wolfe fan visiting Washington, decided to take a 3-hour trip to Asheville to have a look at Wolfe's house. He spoke no English but, when he got to Asheville, its new guide service put him in touch with a German-speaking family. The family had a cache of Munich beer in the cellar and, instead of staying 3 hours, the visiting professor stayed 3 days. He was late getting back to his classes, but he is wildly enthusiastic about America.

Most cold-war objectives cost money, and this means more taxes. Fortunately, however, hospitality costs little or nothing. In fact, for most of the 185 million Americans it's just doing what comes naturally.

RELIEF OF JAMES M. NORMAN

Mr. YARBOROUGH. Mr. President, I rise to speak on behalf of a perhaps unique proposition: Let us pass H.R. 1361 for the relief of James M. Norman as speedily as possible, without amendment or substitution.

Mr. Norman is a constituent of mine; he lives in Memphis, Tex. Mr. Norman is a farmer of wheat, and to protect his crop he attempted to insure against loss through the Federal Crop Insurance Corporation. Through a series of Government errors, Mr. Norman was led to believe that he had valid crop insurance when in fact he did not. As a result, it is now claimed he owes the Government $2,001.48; the pending bill would relieve him of that debt. The bill for his relief is not objected to by the administration, and has been approved by the House Judiciary Committee, passed by the House of Representatives and approved by the Senate Judiciary Committee.

Last summer, as his bill was being acted on in the House, Mr. Norman wrote me and asked for my help. After looking into the justice of the matter, I assured him and the House sponsor of the bill that I would do what I could to see that his claim received proper consideration by the Senate. Erroneously, as it seems, I thought that approval of this meritorious claim by the Senate Judiciary Committee would see the beginning of the end of Mr. Norman's trouble.

I share my constituent's surprise at finding this bill the center of another great constitutional controversy. Even more, I am surprised to find that it is proposed not just to amend and expand my constituent's bill a little, but to substitute him away entirely.

Apparently the ghost of this just claim is to be left to wander around the Senate Chamber, looking in vain for its bill number.

Mr. President, I consider that I am still bound by the obligation I undertook to a constituent to secure action for the relief of James M. Norman, American. Accordingly, I shall be compelled to vote against any substitutes, amendments, or other motions which would prevent the Senate from taking action on the subject matter of H.R. 1361 now before us. I reluctantly make this announcement so it will be clear that I am not announcing any opinion on the contents of the substitute, but am pledged to vote to advance the claim of my constituent James M. Norman.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

SHALL AMERICA'S CONSTITUTIONAL BIRTHRIGHT BE SOLD FOR POLITICAL POTTAGE?

Mr. ERVIN. Mr. President, I oppose the Mansfield-Dirksen amendment to H.R. 1361, the amendment being the embodiment of S. 2750. For truth's sake, S. 2750 ought to be called a bill to rob literacy tests, adopted by the States in the exercise of their undoubted constitutional power, of their legal potency for the benefit of illiterate persons who have allegedly completed the sixth grade.

In discussing S. 2750, I shall confine my observations to the selection and election of Presidential and Vice Presidential electors, Senators, and Representatives in Congress in the various States. I take this course simply because the power of Congress to legislate in respect to the selection and election of delegates and commissioners in the territories or possessions of the United States rests upon other grounds.

During the course of my remarks, I shall use the term "Federal elections" to refer to primaries and elections which are held, either in whole or in part, for selecting or electing Presidential and Vice Presidential electors, Senators, and Representatives. This is, in substance, the meaning attached to the term "Federal elections" in the bill.

My opposition to S. 2750 has no relation whatsoever to any matter of race or color. I have always maintained that all qualified citizens of all races are entitled to register and vote.

My opposition is based upon two reasons. The first reason is that existing Federal laws are adequate to secure to every citizen anywhere in the United States the right to vote; and in consequence, the enactment of S. 2750 is wholly unnecessary and in fact would impede rather than accelerate the registration of literate persons possessing all the other qualifications for voting.

The second reason is that S. 2750 is utterly incompatible with section 2 of article I, clause 2 of section 1 of article II, and the 17th amendment, which prohibit Congress from prescribing the qualifications for voters for Presidential and Vice Presidential electors, Senators, and Representatives in Congress, and does not constitute appropriate legislation within the meaning of the 14th and 15th amendments.

Before proceeding with an elucidation of my own views upon S. 2750, I wish to read statements from persons of renowned legal ability in various sections of the United States with respect to this legislative proposal. First, I shall read, from a statement by Hon. Ralph E. Moody, attorney general of Alaska:

> A citizen has what might be termed a conditional right to vote. The State first prescribes requirements to establish who shall vote for the most numerous body of its State legislature. Once the voting class of persons is determined, they also receive a constitutional right to vote in Federal elections. Their constitutional right is entirely dependent upon the State requirement. (*Ex parte Yarbrough*, 110 U.S. 651, at 656). There is no Federal authority granted or implied under these sections as would enable the Government to establish conditions on the exercise of the franchise. This authority is exclusively delegated to the States.

I now read from a statement on this subject made by Hon. Stanley Mosk, attorney general of California:

> Neither of these measures is constitutional because of the absence of power in the Congress to enact such legislation. Both measures propose an eradication of literacy tests in the case of a competent person who has received a sixth-grade education. Since literacy tests have generally been held to be valid, analysis requires a determination of the source of this power of eradication.
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> Regarding S. 2750, this power cannot be found under article I, section 4 of the Constitution. The Constitution adopted, as the qualifications of electors for Members of Congress, those prescribed by the State for electors of the most numerous branch of the State legislature (*Swafford* v. *Templeton*, 185 U.S. 487). The qualification of the voter is determined by the law of the State where he votes (*ex parte Yarbrough*, 110 U.S. 651). These cases point out that the Constitution confers upon a State the sole power to determine the qualifications of voters therein; the Federal Government has no power to determine qualifications of voters in Federal elections. Therefore, article I, section 4 gives Congress no power, the exercise of which would supersede any measures enacted by States under article I, section 2 and the 17th amendment.
>
> Nor does Congress have any power as such to determine qualifications of voters in any elections. "The States, not the Federal Government, prescribe the qualifications for the exercise of the franchise" (*Davis* v. *Schnell*, 81 F. Supp. 872, aff'd 336 U.S. 933). The conditions under which the right of suffrage is to be exercised are matters for the States alone to prescribe (*Pope* v. *Williams*, 193 U.S. 621).
>
> If Congress has no power to determine qualifications of voters, then the power of eradication must be found in the protecting powers of section 5 of the 14th amendment and section 2 of the 15th amendment.
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> The mere requirement of a literacy test does not violate the equal protection clause or the 15th amendment (*Lassiter* v. *Northampton Election Board*, 360 U.S. 45, *Guinn* v. *United States*, 328 U.S. 347). Nor does the mere requirement of such a test violate the due process clause (*Franklin* v. *Harper*, 205 Ga. 779, appeal dismissed 339 U.S. 946).
>
> Therefore, since the mere requirement of a literacy test does not violate either of the

above amendments, Congress is exceeding the scope of the protecting powers by eradicating that which does not constitute prohibited "State action." Thus, Congress has no power of eradicating literacy tests by virtue of the protecting powers conferred by these amendments.

Concerning the question of the constitutionality of the creation of a legal presumption of literacy, it would seem that such presumption would be constitutional because of the close correlation between the facts on which the presumption is based and the fact presumed. However, the creation of such presumption by Congress would not be valid. Since Congress has no power whatsoever to determine the qualification of voters, Congress has no power to substitute its judgment for that of the States. Thus Congress has no power to put a presumption of literacy in the place of a test to determine the existence of literacy.

Mr. President, it would be difficult even to conjecture that any authority in the law could have made a clearer statement of the unconstitutionality of S. 2750 than that made by the Attorney General of California, which I have just read.

About a year ago a great jurist who had sat for some time with rare distinction upon the Court of Claims retired from that court and became a member of the faculty of that most unusual and fine law school known as Hastings College of Law, in San Francisco. I refer to Judge J. Warren Madden. Judge Madden and one of his associates on the faculty of that law school, Prof. Brooks Cox, have made a statement with reference to the constitutionality of Senate bill 2750. In the statement, they say:

In our opinion, the provisions of section 2 of article I of the Constitution, and of section I of amendment 17, preempt the field, so far as the qualifications of voters for Representatives and Senators are concerned. These provisions leave the States free to determine those qualifications, by the process of setting the qualifications of voters for members of the most numerous branch of the State legislature. When the States have done this, in compliance with the 15th amendment, * * * and in compliance with the equal protection provision of the 14th amendment, that would seem to set the qualifications of voters for Representatives and Senators, and leave no room for congressional action. From what we have said, it would follow that a State can set whatever standard of literacy it pleases. It must, of course, administer its standard in compliance with the constitutional requirements referred to above.

The provision that a sixth-grade education in the Spanish language shall qualify a voter infringes, in our opinion, on the constitutional right of the State to determine the qualifications of voters. The 15th amendment does not forbid States from requiring literacy in English as a qualification for voting. And it is hardly conceivable that a requirement of literacy in the official language of a State and of the Nation would be regarded as a denial of the equal protection of the laws to those not literate in that language.

As to qualifications for voting for electors who in turn vote for the President and the Vice President, article II of the Constitution and the 12th amendment, lodge that determination in the States. Congress may not regulate it, except in the enforcement of the 15th amendment and the equal protection provision of the 14th amendment.

As to the validity of the suggested statutory presumption of literacy, * * * it follows from what we have said that such a provision would have no room for application, since the presumed fact is irrelevant to anything which Congress could, under the Constitution, regulate by legislation.

Mr. TALMADGE. Mr. President, will the distinguished Senator from North Carolina yield for a question?

Mr. ERVIN. I am delighted to yield to my distinguished friend.

Mr. TALMADGE. Did not the Attorney General of the United States appear before the subcommittee headed by the distinguished Senator from North Carolina, to testify on this measure, when it was pending there?

Mr. ERVIN. He did.

Mr. TALMADGE. By what strange indulgence in semantics did he attempt to reconcile this measure with the Constitution of the United States, particularly with section 2 of article I and the 17th amendment?

Mr. ERVIN. At the time of his appearance before the Subcommittee on Constitutional Rights, the Attorney General admitted that Senate bill 2750 would be unconstitutional if it attempted to prescribe the qualifications for voting. He admitted that under the Constitution the power to prescribe the qualifications for voting resides in the States, not in the Congress. But if I correctly interpret the statement he made then, he undertook to justify Senate bill 2750 on the theory that it did not undertake to prescribe the qualifications for voting, but undertook to prescribe a Federal standard by which the validity of a State literacy test could be measured on the basis of reasonableness.

I do not know whether the Senator from Georgia agrees with me; but, in my judgment, in taking that position the Attorney General manifested a legal astuteness which was not even possessed by such distinguished lawyers as Tweedledum and Tweedledee, because neither Tweedledum nor Tweedledee ever attempted to split legal hairs with such nicety and fineness as that.

Of course, the Attorney General did not point out any part of the Constitution giving Congress the power to prescribe any Federal standard by which the reasonableness or unreasonableness of a State literacy test could be measured.

Mr. TALMADGE. Did the Attorney General attempt to claim that the bill can be justified under section 4 of article I of the Constitution, by which the Congress is empowered to regulate the manner of holding such elections?

Mr. ERVIN. As I interpret the testimony given by the Attorney General before the subcommittee, he admitted that section 4 of article I of the Constitution would not support any exercise by Congress of the power embodied in Senate bill 2750.

Incidentally, I may say that Dean Griswold, of Harvard Law School, also admitted, when he appeared before the subcommittee, that section 4 of article I of the Constitution does not confer upon Congress any power to enact this bill.

Mr. TALMADGE. Does the distinguished chairman of the subcommittee agree with the language used by the court in the case of *People* v. *Guden*, 75 New York Supplement, page 349, as follows:

The "manner of election" does not go to the question of what body of electors shall elect.

Does the distinguished chairman of the subcommittee believe that to be sound law?

Mr. ERVIN. It is sound law; and it was not only recognized in the Guden case, but it has also been recognized in the court decisions in all other States of the Union which have constitutional provisions in reference to the power to regulate the manner of holding elections.

Mr. TALMADGE. Does the distinguished Senator from North Carolina agree with the following language used by the court in the case of *Livesley* v. *Litchfield*, 83 Pacific, at page 142:

The authority given by section 7 of article VI to prescribe the "time and manner" in which municipal officers may be elected or appointed does not, we think, include the power to determine what shall constitute a legal voter.

Mr. ERVIN. I think that is undoubtedly a sound decision, placing a correct interpretation upon the words "manner of elections." It was one of the cases I had in mind a while ago when I stated that the rule laid down in the Guden case had been sustained by all the decisions of the State courts that had similar constitutional provisions.

Mr. TALMADGE. In other words, the conclusion of the distinguished chairman of the subcommittee is that, by no stretch of the imagination, could this amendment be held to be constitutional under article I, section 4, of the Constitution of the United States, and that the courts have so held?

Mr. ERVIN. The Senator from Georgia is eminently correct, and I would add further that the decisions of the Supreme Court of the United States itself—and I refer particularly to the Seibold and the Clarke cases, involving the Enforcement Act of 1870, say in effect that section 4 of article I merely gives Congress the power to regulate the mode or manner in which votes shall be cast and counted and returned and certified.

Mr. TALMADGE. And not to determine who are qualified voters?

Mr. ERVIN. That is correct. In other words, they regulate the mode by which the ballots are going to be cast in congressional elections, by persons who are qualified voters within the purview of section 2 of article I and the 17th amendment.

Mr. TALMADGE. Will the Senator yield further for a question?

Mr. ERVIN. I am delighted to yield.

Mr. TALMADGE. When the Attorney General was testifying before the subcommittee of the able Senator, did he indicate in any way that the 14th amendment gives Congress authority to enact legislation such as is now pending before the Senate?

Mr. ERVIN. The Attorney General undertook to sustain this legislation on the theory that it was founded upon the 14th amendment and the 15th amendment; but, of course, his assertion is absolutely without basis as to the 14th amendment, because the State literacy tests cannot possibly violate the due process clause of that 14th amendment, in that they have a rational relationship to the objectives of the State; namely, to obtain an independent and intelligent electorate. Furthermore, the validity of S. 2750 cannot possibly be sustained under the 14th amendment for the additional reason that the State literacy tests apply alike to all persons, regardless of race or sex, and are therefore not in disharmony with the equal protection clause.

Mr. TALMADGE. In other words, the 14th amendment merely prohibits the States from discriminating against any person for any reason whatsoever.

Mr. ERVIN. That is correct. The power of Congress to pass legislation to enforce the 14th amendment, as the able and distinguished Senator from Georgia knows, is limited to legislation which is adapted to prevent the States from doing that which the States are prohibited from doing; and that amendment does not grant any power to enact affirmative legislation for the Federal Government to take over the performance of State duties.

Mr. TALMADGE. I will ask the able chairman of the subcommittee if he agrees with the language in the case of *Minor* v. *Happersett*, reported in 88 U.S. at page 162, in which the Supreme Court of the United States in construing the 14th amendment used the following language:

> The amendment did not add to the privileges and immunities of a citizen. It simply furnished an additional guaranty for the protection of such as he already had. No new voters were necessarily made by it. Indirectly it may have had that effect, because it may have increased the number of citizens entitled to suffrage under the Constitution and laws of the States, but it operates for this purpose, if at all, through the States and the State laws, and not directly upon the citizen.

Mr. ERVIN. I agree that this is a very sound statement of the constitutional principle involved. I think any person who has any knowledge of the English language—I would say even a person who has completed the sixth grade, and who has not received social promotions—would reach that same conclusion without difficulty, because that is exactly what is stated in the second section of article I and the 17th amendment, as any person who understands the English language knows.

Mr. TALMADGE. In other words, if a person can read the English language, he does not have to be a lawyer to understand that part of the Constitution.

Mr. ERVIN. That is true, because no simpler words in the English language exist than those in the second section of article I, which provide that a person is eligible to vote for a Member of Congress in his District if he has the qualifications requisite for electors of the most numerous branch of the State legislature; or the words in the 17th amendment, which say that a person is qualified to vote for a Senator in his State if he has the qualifications requisite for electors of the most numerous branch of the State legislature.

Mr. TALMADGE. Mr. President, will the Senator yield further?

Mr. ERVIN. I yield.

Mr. TALMADGE. I ask the Senator if he agrees with the following language of the Supreme Court of the United States in the case of *Guinn* v. *United States*, reported in 238 United States, page 347, in construing the 14th and 15th amendments of the Constitution:

> Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning, and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest, would be without support, and both the authority of the Nation and the States would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.
>
> Thus the authority over suffrage which the States possess and the limitation which the amendment imposes are coordinate and one may not destroy the other without bringing about the destruction of both.

Mr. ERVIN. I think that is a sound construction of section 2 of article I and of the 17th amendment and of the relationship between those two provisions and the 14th and 15th amendments. I think that is a correct statement.

In other words, under section 2 of article I and clause 2 of section 1 of article II and the 17th amendment, the States have complete power to prescribe qualifications for voters in so-called Federal elections, subject only to the limitations of the 14th amendment, the 15th amendment, and the 19th amendment. All that those amendments do is prohibit the States from doing certain prohibited things.

This bill cannot be justified or supported under the 14th amendment for the reasons I have already stated and for additional reasons which I shall state later.

Moreover, the bill is not appropriate legislation under the 15th amendment, because, as the Guinn case intimates, and many other decisions hold, no law is valid under the 15th amendment unless it is confined to discriminations in voting on account of race, color, or previous condition of servitude.

Mr. TALMADGE. I will ask the distinguished Senator if he agrees with this language of the U.S. Supreme Court in the case of *Pope* v. *Williams*, 193 U.S. 621, in construing the 15th amendment:

> Since the fifteenth amendment the whole control over suffrage and the power to regulate its exercise is still left with and retained by the several States, with the single restriction that they must not deny or abridge it on account of race, color or previous condition of servitude.

Mr. ERVIN. That is undoubtedly a correct interpretation of the effect of the 15th amendment.

Mr. TALMADGE. In other words, the Senator shares my view that the 14th and 15th amendments did not grant to the Federal Government any new power to regulate elections but merely prohibited the States from denying certain rights to their citizens.

Mr. ERVIN. That is correct. The 15th amendment applies only to denying voting rights on the basis of race, color, or previous condition of servitude. May I add something?

Mr. TALMADGE. Of course.

Mr. ERVIN. I was very much interested in hearing the Senator read from the case of Pope against Williams, because in the North Carolina vernacular, that case knocks into a cocked hat the proposition advanced by the bill and by the Attorney General in his testimony before the subcommittee, that Congress has some kind of uncertain, indefinite, and vague power to prohibit things which it may deem to be unreasonable.

In the case of Pope against Williams the Court said that if the State has the power, as it does, to deal with the matter legislatively, the question of whether it is reasonable or unreasonable does not even present a Federal question.

Mr. TALMADGE. In other words, that is a queston for courts and juries under present law?

Mr. ERVIN. That is correct. The Constitution itself says what is reasonable or unreasonable in this field. It says that the States have full power to prescribe the qualifications for voters, subject to the limitation under the 15th amendment that the States cannot deny to any man otherwise qualified the right to vote because of his race, color, or previous condition of servitude; and subject to the limitation of the 19th amendment that the States cannot deny to any person otherwise qualified the right to vote on account of sex. Those are the two qualifications which the Constitution says are unreasonable and cannot be permitted.

Mr. TALMADGE. Is it not true that there are now on the Federal statute books 9 civil laws and 6 criminal laws, making a total of 15 laws, which protect any citizen in his right to vote?

Mr. ERVIN. If the Senator says there are that many, I accept his statement, because the Senator is a great lawyer. I call to mind at least six laws, which insure that no qualified citizen of any race can be denied the right to vote, if these laws are utilized. These laws likewise make it certain that if any official of any State willfully denies any citizen the right to vote through maladministration of a literacy test or through any other evil act, he cannot escape punishment if existing laws are enforced.

Mr. TALMADGE. Is it not true that the U.S. Supreme Court, in the Lassiter case which arose in the Senator's State of North Carolina in 1959 unanimously upheld the position that the States have the right to prescribe qualifications of voters?

Mr. ERVIN. That is correct; only 3 years ago.

Mr. TALMADGE. Was not that decision unanimous, with every one of the judges concurring?

Mr. ERVIN. It was.

Mr. TALMADGE. And the Court held in that decision, did it not, that the States had a right to determine the qualifications of voters within their respective boundaries?

Mr. ERVIN. The Senator is correct. The Court expressly said that this right was in complete harmony with the 14th amendment, the 15th amendment, and the 19th amendment.

Mr. TALMADGE. Can the able Senator by any stretch of the imagination understand how the Senate could attempt to go further than the present Supreme Court in destroying what few rights are left to the States?

Mr. ERVIN. I cannot, because this legislation strikes at a fundamental principle of our Government, which is that the right to prescribe the qualifications for voting is vested in the States rather than in the Congress. This is one of the checks and balances instituted to preserve our Republic so that it will function as such and not be converted into a centralized government.

Mr. TALMADGE. Is it not true that the effect of the proposal pending before the Senate would be to repeal section 2 of article I and a portion of the 17th amendment?

Mr. ERVIN. The proposal undertakes as a practical matter to say that the qualifications of voters for Senators and Representatives in Congress shall not be those prescribed in the Constitution—namely, those qualifications requisite for electors of the most numerous branch of the State legislature. Rather, S. 2750 would substitute a provision to the effect that those who allegedly have a sixth-grade education have met the literacy qualification even though they are proven to be illiterate when subjected to a literacy test.

Mr. TALMADGE. Mr. President, will the Senator yield further?

The PRESIDING OFFICER (Mr. JORDAN in the Chair). Does the Senator yield?

Mr. ERVIN. I am delighted to yield.

Mr. TALMADGE. Would the Senator be startled if I were to tell him I received a telephone call last night from a gentleman who informed me that his sister teaches a freshman class in a New Jersey high school in which there are three students who can neither read nor write?

Mr. ERVIN. I would not be startled in any degree by that, because educators tell me that as a result of compulsory school attendance laws, which are in force in virtually all the States, the schools have been compelled to devise what they call a system of social promotions. The children must go to school from the time they are 6 or 7 years of age until they are 14 or 15, or 16 or 17 or 18 years of age, whatever the State law provides. The schools must accept them.

This presents the danger of a psychological disaster, both for the beginning students and also for those students who keep growing physically but do not grow mentally. The large or older students are given social promotions, regardless of whether they can read or write, in order to prevent students 6 feet tall from remaining in the lower grades of school, which are designed for small, younger children.

Mr. TALMADGE. Would the able Senator be willing to yield further?

Mr. ERVIN. I am delighted to yield.

Mr. TALMADGE. I am sure the distinguished Senator, in his long and outstanding career as a lawyer and as a judge on the North Carolina Supreme Court, has heard of a gentleman by the name of Willoughby and his treatise on constitutional law.

Mr. ERVIN. He is acknowledged to be one of the greatest students of constitutional law and constitutional government this country has ever produced.

Mr. TALMADGE. I ask the Senator if he agrees with this language, taken from Willoughby, "The Constitutional Law of the United States," pages 540–541:

> A distinction is to be made between the right to vote for a Representative to Congress and the conditions upon which that right is granted * * * the right to vote is conditioned upon and determined by State law. But the right itself, as thus determined is a Federal right. That is to say, the right springs from the provision of the Federal Constitution that Representatives shall be elected by those who have the right in each State to vote for the members of the most numerous branch of the State legislature. The Constitution thus gives the right but accepts, as its own, the qualifications which the States severally see fit to establish with reference to the election of the most numerous branch of their several State legislatures.

Mr. ERVIN. That is absolutely correct, as I see it. Of course, the Constitution creates the offices of President, Vice President, Senator, and Representative in Congress; but the Constitution itself says, in the first article and in the second article and in the 17th amendment, that the States shall prescribe the qualifications of those who are to be allowed to vote in elections to fill these offices.

Mr. TALMADGE. Will the able Senator yield further?

Mr. ERVIN. I am delighted to yield to the Senator.

Mr. TALMADGE. I am sure that in his long experience as a lawyer, as a judge, and as chairman of the Subcommittee on Constitutional Rights that the distinguished Senator is familiar with a volume called Cooley on "Constitutional Limitations," is he not?

Mr. ERVIN. Yes. Judge Cooley, who was a distinguished member of the Michigan Supreme Court, and for a time professor of law at the University of Michigan, is universally recognized as one of the greatest students of the Constitution in the history of this Nation.

Mr. TALMADGE. Would the able Senator say that Mr. Cooley and Mr. Willoughby perhaps know as much about the Constitution of the United States as does the Attorney General?

Mr. ERVIN. I believe that the Attorney General would concede that they are greater authorities on the Constitution than he or I.

Mr. TALMADGE. I ask the Senator if he agrees with the following statement by Mr. Cooley on constitutional limitations, volume 2, pages 1360 and 1361:

> The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left by the National Constitution to the several States, except it it provided by that instrument that the electors for Representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the State legislature, and as the 15th amendment forbids denying of citizens the right to vote on account of race, color, or previous condition of servitude.

Mr. ERVIN. That is a very fine statement of the principle by Judge Cooley. Incidentally, Judge Cooley is quoted, in a case which I shall cite later from the State of Illinois entitled "People Versus English," on the precise point that is involved in the measure before the Senate.

Judge Cooley said in another portion of his book on "Constitutional Limitations," that where the qualifications of voters are fixed by a constitution, they cannot be changed by any act of a legislative body, but, on the contrary, can be changed only by a constitutional amendment.

Mr. TALMADGE. In other words, it is the Senator's contention that the Constitution of the United States can be amended only in the manner prescribed in that document.

Mr. ERVIN. That is true.

Mr. TALMADGE. Is an act of Congress one of the means prescribed within the Constitution for the amendment of the Constitution?

Mr. ERVIN. It certainly is not. A majority of the Congress can pass a bill. But an amendment to the Constitution must be approved by a two-thirds majority of each House of the Congress, and then must be approved by the legislatures of three-fourths of the States.

Mr. TALMADGE. I concur in that view wholeheartedly. I compliment the able and distinguished Senator on the speech that he is making. I know of no provision in the Constitution or any authority on the face of the earth which provides that Congress, by simple legislative enactment, can amend the Constitution of the United States. I commend the Senator. I share his views.

Mr. ERVIN. I thank the Senator. Yesterday the junior Senator from Georgia made a magnificent exposition of all the questions involved in the measure before the Senate. He should receive the gratitude of the entire Nation for the fight which he has undertaken to preserve the Constitution of the United States for the benefit of all Americans of all generations and all races.

Mr. TALMADGE. I am overwhelmed by the generosity of my distinguished friend.

Mr. HILL. Mr. President, will the Senator yield?

Mr. ERVIN. I am delighted to yield to the distinguished Senator from Alabama.

Mr. HILL. Undoubtedly the Senator recalls that Thaddeus Stevens of Pennsylvania was the chairman of what was known as the Reconstruction Committee, which reported the 14th amendment to

the House of Representatives. Is that not correct?

Mr. ERVIN. The Senator is correct.

Mr. HILL. The Senator no doubt will recall that when Thaddeus Stevens offered the 14th amendment on the floor of the House of Representatives, there were some who wanted to have the amendment in some way derogate section 2 of article I, or in some way interfere with the rights of the States to fix the qualifications for electors. Is it not true that at that time on the floor of the House of Representatives Mr. Stevens made the following statement:

Now, I hold that the States have the right, and always have had it, to fix the elective franchise within their own States. And I hold that this—

Referring, of course, to the proposed 14th amendment—

does not take it from them. Ought it to take it from them? Ought the domestic affairs of the States to be infringed upon by Congress so far as to regulate the restrictions and qualifications of their voters? How many States would adopt such a proposition?

How many would allow Congress so far as to regulate the restrictions and qualifications of their voters? * * * Would New York? Would Pennsylvania? Would the Northwestern States? I am sure not one of them would. Therefore, if you should take away the right which now is and always has been exercised by the States, by fixing the qualification of their electors, instead of getting 19 States, which is necessary to ratify this amendment, you might possibly get 5. I venture to say you could not get five in this Union.

Did not Mr. Stevens make that statement?

Mr. ERVIN. Yes; Thaddeus Stevens made that statement. But he made it before the advocates of the present measure had come upon the scene. The advocates of the measure before the Senate, who admit that it is directed at only four or five Southern States, are attempting to change the laws of all 50 States of the Union. Even Thaddeus Stevens did not allow his desire to reconstruct the South to tempt him into any such proposal as this with respect to the States generally.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. ERVIN. I am delighted to yield.

Mr. HILL. Is it not true that had the proponents of the measure before the Senate taken the time to read the statement of Thaddeus Stevens, they might well have lacked audacity to offer the proposal?

Mr. ERVIN. In making the statement I am about to make, I do not speak of all the advocates of the bill, but I was under the impression that one of them had never heard of Thaddeus Stevens, because he stated before the committee that after 100 years he thought it was time for someone to do something about "this situation." He evidently did not know that over a period of almost 100 years Thaddeus Stevens and others had been trying to do something about the situation.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. ERVIN. I am delighted to yield.

Mr. HILL. Is it not true that the statement of the Attorney General of the United States before the subcommittee of which the distinguished Senator from North Carolina is chairman, in support of the bill S. 2750, on April 10, 1962, did not contain the citation of a single case or a single constitutional authority?

Mr. ERVIN. The Senator is correct. I commend the candor of the Attorney General and the dean of the Harvard Law School in one respect. They both admitted that although section 2 of article I had been in the Constitution for more than 170 years, they were unable to find any decision indicating that any court had ever thought that Congress had any power to prescribe the qualifications of voters for so-called Federal elections.

Mr. HILL. And they could not find any responsible authority on the Constitution of the United States that in any way indicated or suggested that Congress had any power to enter the field of prescription of qualifications of voters; is that correct?

Mr. ERVIN. The Senator is correct.

Mr. HILL. I thank the distinguished Senator and commend him on the very able address he is making today.

Mr. ERVIN. I thank the Senator. The Senator made an exceedingly fine presentation of the many serious questions involved in the bill when he spoke on the floor of the Senate several days ago.

Mr. HILL. I thank the Senator.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. ERVIN. I am delighted to yield to the able and distinguished senior Senator from Louisiana.

Mr. ELLENDER. I join the Senator in complimenting my good friend from Georgia [Mr. TALMADGE] on his able address of yesterday and also to compliment both Senators on the series of questions and answers that have been asked and answered during the past 30 or 40 minutes.

As I understand, the record of the hearings held by the distinguished Senator from North Carolina on this bill has not yet been printed. Is that correct?

Mr. ERVIN. Yes; I understand that the printing will be completed tomorrow.

Mr. ELLENDER. The absence of the printed hearings puts all of us to a great disadvantage. For instance, we do not know what the Attorney General said, and the reasons he advanced for proposing this legislation. What evidence has been introduced before the committee to sustain this sentence, which I read from the bill under "(b)"?

Congress further finds that the right to vote in Federal elections should be maintained free from discrimination and other corrupt influence.

Has any evidence at all been introduced?

Mr. ERVIN. None whatever.

Mr. ELLENDER. Under "(c)" I read:

Congress further finds that many persons have been subjected to arbitrary and unreasonable voting restrictions on account of their race or color.

Mr. ERVIN. There was no direct evidence of any character introduced to sustain that point. The advocates of the bill relied upon certain statements in the report of the Civil Rights Commission.

Mr. ELLENDER. That brings up the next question I should like to ask the Senator. The Civil Rights Commission, which has been in existence during the last 5 years, has some 75 to 80 lawyers in its employ, who are trying to cite denial of voting rights of citizens throughout the Nation, particularly in the South. As I recall, during the period of 5 years they have been able to get, as I recall, in excess of 25 such cases. Am I correct in that statement?

Mr. ERVIN. I am not certain about that. Since I first came to the Senate, I have heard the testimony of three Attorneys General of the United States; namely, Attorney General Brownell, Attorney General Rogers, and Attorney General Kennedy who came before the Subcommittee on Constitutional Rights to urge the enactment of legislation which, they said, was necessary to correct conditions in this area. I thought that if some of the things they said were correct a great effort would have been made to prosecute election officials in Southern States in criminal cases under Federal statutes making the willful deprivation of the right to vote a crime.

I therefore inquired of the Justice Department as to how many efforts had been made to prosecute anyone in any Southern State on the charge of having denied to any person the right to vote on the basis of race since 1950. The Department replied that there had been only three such efforts.

My recollection from a letter I received several years ago on this same question is that, in one or more of these cases there had not been a bona fide effort to indict anyone, because there merely had been investigations made by grand juries, and the U.S. attorneys handling such investigations did not even draw a bill of indictment for the grand juries to act on.

Mr. ELLENDER. Is it not a fact that the basis for the creation of the Civil Rights Commission was to provide an arm of the Federal Government with which to investigate these charges if they have been lodged; and is it not true that over a period of 5 years some 630 affidavits have been made pursuant to the Civil Rights Commission's authority?

Mr. ERVIN. I am not certain as to the number. I know that in my State there were said to be 39. Those are very few, in view of the fact that we have a total Negro population of 1,116,000. Its report stated that the Commission had not had any voting complaints from South Carolina. I recall those things about those two States.

Mr. ELLENDER. It is my recollection that during the 5-year period that this roving Civil Rights Commission has been trying to find fault with States for not permitting people to vote, it brought 25 cases before the court, and fewer than 400 persons appeared before the Commission or submitted statements to the effect that there were indications that

certain prospective voters had been discriminated against.

Mr. ERVIN. The Senator may be correct. I do not recall exactly what the report states in that connection.

Mr. ELLENDER. What good would come from the enactment of the bill? Would it give any more power to the Attorney General than he now has?

Mr. ERVIN. We would not be giving the Attorney General any additional power. We would be giving an election official who wants to be contrary more power to discriminate. The bill is peculiar in that it does not provide that the completion of the sixth grade constitutes a qualification for voting. The advocates of the bill knew that Congress did not have power under the Constitution to prescribe qualifications for voting. The bill does not provide that State literacy tests are abolished, because its advocates recognize the fact that under the Constitution the States have the power to prescribe literacy tests.

The bill moves in a very mysterious way, its wonders to perform. It provides that no person shall be denied the right to vote because of his performance in an examination, whether for literacy or otherwise, if he has completed the sixth grade in an accredited school.

In other words, the bill provides that if a person is subjected to a literacy test, under a State law establishing such test, and that person demonstrates on his literacy test that he is illiterate, he shall nevertheless be allowed to vote if he has completed the sixth grade.

It is not a bill, as its proponents claim, to secure the voting rights of literate people who are otherwise qualified to vote; but it is a bill to secure the right to vote to illiterate people whose illiteracy is demonstrated by their own performances on their examinations, if they have completed the sixth grade.

In other words, the bill would establish a rank discrimination between two types of illiterate people. Under it, a person who is illiterate, but who has not had the opportunity to go to school up to the sixth grade, would not have the right to vote; but an illiterate person who has had the opportunity to go through the sixth grade will be allowed to vote.

Mr. ELLENDER. Is it not true that many States do not have literacy tests?

Mr. ERVIN. There are 29 States that do not have literacy tests. There are 21 States which do have literacy tests. Of those 21 States, 14 are located in areas which lie outside the South.

Mr. ELLENDER. I am glad to learn from the Senator that no evidence was submitted to indicate that Congress further finds that the right to vote in Federal elections should be maintained free from discrimination and other corrupt influence.

Since that was one of the bases advanced for the enactment of the bill, it seems to me much evidence should have been introduced to sustain that reason. Does the Senator agree with me?

Mr. ERVIN. I agree with the Senator. I have come to the conclusion that the reason for the recitals in section 1 is to encourage the advocates of the bill to believe they are justified in doing the constitutional evil the bill envisions because some good may result from such evil.

I believe that section 1 of the bill is the counterpart of the first six verses of the third chapter of Genesis. The Senator from Louisiana recalls how the Devil, in the form of a serpent, asked Eve whether she and Adam were permitted to eat the fruit of the trees of the Garden of Eden. She replied that they were permitted to eat the fruit of all the trees in the garden except the fruit of the tree which stood in the midst of the garden. She said, in essence, "We cannot eat of the fruit of that tree, because we have been assured that if we do eat the fruit of that tree, we will surely die."

The Devil, in the form of a serpent, told her, in substance, "You will not die if you eat of the fruit of that tree. If you do eat of it you will be as gods, knowing good and evil."

Eve looked at the tree, and saw that the fruit was pleasant to the eyes and desirable for food and to make one wise. So she took the fruit and disobeyed the Lord. She did evil because she thought she was going to get some good—perhaps a sixth-grade education, or something like that—out of it.

Mr. ELLENDER. Mr. President, will the Senator from North Carolina yield for a further question?

Mr. ERVIN. I am happy to yield for a question.

Mr. ELLENDER. Assuming that Congress would pass the bill—which I am confident it will not—and assuming that the Supreme Court should fall into line and hold that such legislation is constitutional, can the Senator from North Carolina imagine what would happen to the right of the States to define the qualifications of its voters? Would not such a law in effect permit the control over voter qualification to be usurped by Congress?

Mr. ERVIN. It would be the first step in a process under which the Federal Government would undoubtedly usurp all of the powers of the State governments.

Mr. ELLENDER. Then there is no doubt that the Federal Government would be in a position to rule on who would be eligible to constitute the electorate in each of the 50 States.

Mr. ERVIN. That is correct. That is the very reason, so Alexander Hamilton informed us in one of the Federalist papers, why the Founding Fathers gave the States the power to prescribe the qualifications of voters. They did not want the Federal Government to have the power to centralize all governmental authority in itself.

Mr. ELLENDER. I feel certain there is no question in the mind of the Senator from North Carolina that if the bill were to pass and the qualifications of electors were placed in the hands of the Federal Government, Congress would be establishing an all-powerful central government, with little or no power left to the States.

Mr. ERVIN. In the course of my remarks, I shall call attention to a declaration by the Democratic National Convention in 1868 which is exactly to that effect.

Mr. ELLENDER. I thank the Senator from North Carolina.

Mr. ERVIN. Mr. President, before I engaged in the most interesting colloquies with the Senator from Georgia, the Senator from Alabama, and the Senator from Louisiana, I was in the process of reading statements concerning the bill made by distinguished legal authorities from various sections of the country. I shall now resume the reading.

I now read a statement made by Hon. Richard W. Ervin, attorney general of Florida, who, I am proud to say, is a member of the same family of which I am a member:

> It has long been my impression, and it seems well founded in law, that the right of suffrage is not conferred by the Federal Government, but is generally derived from the several States under State constitutions. This being the case, there comes to mind a serious question as to the appropriateness of Federal legislation to provide for regulations in this area.

Prof. Richard V. Carpenter, of the Loyola University School of Law, Chicago, Ill., made this statement:

> S. 2750 would also provide that a sixth-grade education, even in a foreign language school (e.g., an accredited Spanish language school in Puerto Rico), must be accepted as compliance with the language proficiency as well as the literacy test of any State. In effect, this would deny to any State the power to impose proficiency in English as a qualification for voters. If Congress were to enact this provision, I believe it would be usurping the power explicitly reserved to the States to determine the qualifications of electors in their respective elections. I disagree heartily, and any State legislature may fairly and justly disagree, with the recital or implication of S. 2750 that citizens who read, speak, and understand only Spanish are, generally speaking, as well qualified as those proficient in English to exercise the voting franchise. I further disagree with the recitals that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources, and that lack of proficiency in the English language provides no reasonable basis for excluding these citizens from participating in the democratic process. To me, it seems ordinary commonsense that ignorance of the English language would tend to handicap any voters in this country from understanding campaign issues and the qualifications of candidates. The relatively limited Spanish-language news sources cannot be expected to give as broad coverage to campaign issues and candidates as English-language sources. Moreover, a State legislature might reasonably find that campaigners would be unduly burdened if they were under duress to duplicate their broadcasts in Spanish as well as English, and to meet all the challenges posed by Spanish-language publications as well as English.
>
> If a State wishes to enfranchise their foreign-language citizens, regardless of proficiency in English, it would certainly be within their power to do so; but they would not be acting arbitrarily or unjustly if they elected not to do so. Under the Constitution, the States should have the freedom to make their own rules in the matter and Congress should not repress that freedom. The rule that might be best for New Mexico may not be appropriate for Maine or New York.

Prof. Alfred Avins, of Chicago-Kent College of Law, Chicago, Ill., said:

Manifestly, it is futile to argue that the 15th amendment was mere surplusage, and that the 14th amendment was intended to encompass a restriction on State voting qualifications. And it is equally at war with reason that Congress, after having expressly deleted a provision banning educational qualification from the amendment, should have intended that the watered-down version which finally became the 15th amendment should encompass a provision which had been expressly deleted. The same Members of Congress proposed the 14th and 15th amendments, and it is preposterous to believe that extensive debate should be conducted over a provision already covered by some other enactment. It is clear that the delegation of the educational voting restrictions ban forecloses any congressional action in this field. A State will be well within its constitutional prerogatives to provide that none but those who pass the eighth grade, or high school, or college, or law school, or who can read English, or Latin, or Greek, can vote at Federal or State elections.

* * * * *

I might note that S. 2750 is unconstitutional for still another reason, and would be so even if confined to the District of Columbia where Congress has plenary power to legislate. It is reasonable to require literacy in English for voting since the overwhelming amount of information about the Government is printed in that language, and accordingly a person who cannot read English is barred by language barrier from obtaining most of the information about what his voice will affect, and accordingly such a classification or discrimination is a reasonable one. However, if the limited information obtainable about governmental activities is deemed enough by Congress for intelligent voting, which is obtainable from the Spanish-language press, then there is no rational ground for discrimination against persons literate in Hebrew, Yiddish, Italian, Polish, German, etc., since, in the northern metropolitan areas where such persons are concentrated, there are as many newspapers in those languages as there are printed in Spanish. Accordingly, this unreasonable discrimination against other foreign language groups violates the fifth amendment (*Bolling* v. *Sharpe*, 347 U.S. 497 (1954)).

In sum, it is my opinion that the bills are unconstitutional.

Hon. John B. Breckinridge, attorney general of Kentucky, has this to say regarding the pending bill:

Thus, in view of the Supreme Court's decision [in the Lassiter case], on the proposed bills, which attempt to set up literacy requirements as conditions for voting in face of the constitutional delegation of such authority to the various States, would appear to be invalid.

Attorney General Gremillion, of the State of Louisiana, says:

There is nothing in the Constitution of the United States, either by inference or otherwise, which will give to the Federal Government the right it now seeks to determine qualifications of voters as set up by the individual States.

Suffrage and citizenship are not the same. Suffrage is not one of the inherent or natural rights given to man by his Creator; nor is it a right of property or an absolute personal right. Suffrage is in all respects a conventional right, a right of the State, subject to be withheld or taken away by the power of the State.

The regulation of the right to vote belongs exclusively to the States. It is not a civil right or privilege but a political right, and not necessarily resulting from citizenship, and over the acquisition and enjoyment of which the judicial power of the United States has no jurisdiction or control, except in cases falling within and governed by the 15th amendment. The 15th amendment does not confer the right of suffrage on anyone, but operates to prevent discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude (citing *Reese* v. *United States*, 92 U.S. 241).

Prof. Paul G. Kauper, of the University of Michigan Law School, has made the following observations on this bill:

The Constitution make(s) clear that the qualification of electors is determined by State law, and in view of this explicit constitutional provision, it must be concluded that the breadth of congressional power over Federal elections does not include power to override State-prescribed qualifications or to substitute federally prescribed qualifications in their place.

* * * * *

Turning to the questions raised by literacy tests required by State law as a condition to voting, it seems clear that proof of literacy, as a condition to registration for voting is appropriately characterized as a qualification within a State's power to impose under the authority reserved to the States under article I. It seems to me that this question was put to rest by the Supreme Court's decision in *Lassiter* v. *Northampton Election Board* (360 U.S. 45), where the Court held that the imposition of a literacy test by the State of North Carolina came within the State's power to prescribe qualifications, and that absent any showing that the test was applied in an arbitrary or discriminatory way, such a qualification did not violate the 14th amendment. * * *

* * * * *

I think the proposed legislation presents serious and substantial questions of constitutionality. It prescribes a drastic remedy at the expense of State power to prescribe a type of qualification which the Supreme Court has recognized as valid. Congress is prescribing a positive type of qualification, rather than prohibiting qualifications that lend themselves to discriminatory application, and this strikes me as raising a serious question of interference with a legitimate area of State power and law.

Prof. John M. Gradwohl and Prof. Wallace M. Rudolph, of the Nebraska College of Law, have made the following joint statement on this subject:

In our opinion, the power to Congress to establish voter qualifications is remedial only. The plenary power to fix the qualifications for voters in both State and Federal elections has constitutionally and traditionally rested with the States. Congress has no general power under the Constitution to establish voter standards.

Article I, section 4, provides a limited congressional authority to make or alter State provisions relating to the time, places, and manner of holding congressional elections. Inferentially, article II, section 1, would seem to deny this same power concerning presidential elections. This power concerning times, places, and manner, together with the general authority of the "necessary and proper" clause, should not be construed as a substantive grant of authority to Congress to fix the qualifications of voters which has been specifically left by article I, section 2, the 17th amendment, and article 2, section 1, to the States.

* * * * *

The scope of the 15th amendment is limited to discrimination on the grounds of race, color, or previous condition of servitude. Absent a showing that State requirements such as use of the English language or property ownership have been employed to discriminate along racial lines, Congress is not authorized to legislate on these subjects under the 15th amendment.

* * * * *

For practical purposes, Congress is not safe in assuming that the State requirements now on the books would be held to deny equal protection of the laws without a showing of discriminatory application. Until there is a finding of State action which violates the 14th amendment, Congress does not have the authority under the amendment to establish voter standards, and the States retain their traditional exclusive control over voter qualifications applicable to both State and Federal elections.

The Honorable T. Wade Bruton, attorney general of North Carolina, has made the following observation in regard to Senate bill 2750:

Suffrage is a political right reserved and retained by the States subject to Federal constitutional limitations against arbitrary and discriminatory practices. The right to vote is a political right, and is not on a parity with so-called civil rights, vested rights, or property rights, and the right of suffrage is not conferred by the U.S. Constitution. It is derived from the States under their constitutions and statutes. * * *

Congress has not been given the right to provide or add to the States' reasonable standards or qualifications imposed upon those who exercise the right of suffrage.

Prof. Maurice H. Merrill, of the School of Law of the University of Oklahoma, has this to say:

The debates in the Constitutional Convention, as reported in "Madison's Notes," under dates of August 7 and 8, 1787, seem to confirm this, the general tenor of the debate indicating agreement with the thought that what now is article I, section 2, would give the States full control over the qualifications of electors. It also is to be noted that the debate, on August 9, concerning what now is article I, section 4, does not indicate that this provision was regarded as giving to the Congress any power respecting qualifications of electors. Moreover, it is clear that the provision could not have been regarded as permitting Congress to prescribe qualifications concerning electors for Senators in the face of the original prescription of article I, section 3, that Senators should be chosen by the legislatures of their respective States. To my mind, the weight of the available data suggests that, so far as the provisions of S. 2750 rely upon article I, section 4, for constitutional basis, they cannot be sustained.

The Dickinson Law School of Philadelphia, Pa., speaking through an individual lawyer, made this response to an inquiry as to its views on S. 2750:

The language of the Constitution clearly reposes in the States the ultimate determination of the qualifications of the voters. Without constitutional amendment, I do not see how Congress can take from the States the power to determine such qualifications.

Prof. Walter A. Rafalko, of Duquesne University School of Law, at Pittsburgh, Pa., had this to say:

These decisions and the provisions of the U.S. Constitution which speak of the right to vote, the right protected refers to the right to vote as established by the laws and constitution of the State. Subject to the constitutional limitations and restrictions as set forth, the exclusive control of the

voting franchise lies with the States. On the other hand, if abuses in the administration of a State literacy test, fair on its face, take place, the Congress may pass corrective legislation to enjoin such prohibitive State action as they have done pursuant to 42 United States Code 1971, implementing section 2 of the 15th amendment which provides, the Congress shall have power to enforce this article by appropriate legislation. Corrective legislation is not synonymous with enabling acts beyond the scope of congressional power. For these reasons, S. 2750 and S. 480 are unconstitutional, as written.

Thus, the provisions of the bill cannot be reconciled with the holdings of the decisions and with the applicable provisions of the Constitution, in my opinion.

The attorney general of the State of Utah, the Honorable A. Pratt Kessler, declares on this subject:

It seems clear, that the States are left to determine the qualifications of those persons who exercise the electoral franchise even as to Federal elections. The present bills will usurp, to a great degree, the discretion of the State to establish its own qualifications for electors. I feel, therefore, that since the proposed legislation is extremely broad in its possible application, that it may run afoul of the U.S. Constitution. Frankly, I am of the opinion that the proposed legislation creates as many problems as it would solve.

The Honorable Robert Y. Button, attorney general of the State of Virginia, made this observation:

S. 2750 would grant to the Federal Government power to establish qualifications for those who vote in State elections. At the very least, this is an astounding proposition, as reason would dictate that each State should administer its own political system. But the fact that this proposition is offered not as a constitutional amendment, but as a simple act of Congress, can only produce amazement in the mind of anyone who has ever read the Constitution. The power given Congress to enforce the provisions of the 14th and 15th amendments is not all inclusive. * * * The only laws Congress may pass in this regard are "those counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibiting from making or enforcing" (citing *Civil Rights* cases, 102 U.S. 3 (1883)). If the State laws as to literacy are prohibited by the 14th amendment, Congress is authorized to enact S. 2750 to counteract those State laws. But if the State laws are constitutional, then Congress lacks the power necessary to enact S. 2750.

Prof. Stanley Dadisman, of the West Virginia School of Law, had this to say:

The Supreme Court has recognized that a State may take into consideration residence requirements, age, criminal record, and literacy in determining voter qualification. But in these two bills, S. 480 and S. 2750, it is proposed that Congress cure a literacy test problem by prescribing a sixth primary grade school test or standard as a minimum voter literacy qualification. The language as used goes beyond creation of a rebuttable presumption. This, it seems to me, can cause several constitutional questions. On the face of the bill the language tends to stigmatize many voters and to create an arbitrary and discriminatory test. In many areas many voters without a sixth primary grade school education are intelligent people. Many will have sons and daughters in school and in the Armed Forces. They will be people active in business and industry and in the civic and commercial life of their community. They will be familiar with election issues and personalities, will be able and anxious to discuss them, and know how to mark their ballots and operate voting machines. It seems to me that the sixth primary grade school requirement, as in the bills proposed, may be politically, socially and economically unwise, and constitutionally unsound.

The Reverend Francis James Conklin, a native of Montana, and a professor of law at Gonzaga University at Spokane, Wash., had this to say:

The inescapable conclusion is that article I, section 2, even as qualified by article I, section 4, expresses a fundamental constitutional compromise at the very core of the concept of federalism. The constitutional clause in question can only be understood as empowering the States and the States alone to set the qualifications for voters in Federal elections.

Without question the second section of the 14th amendment gives Congress new substantive powers over the States, and the States right to set voter qualifications. Congress now has unrestricted power to diminish the number of representatives from any State which excludes a portion of its male citizens over 21 years of age from the franchise—regardless of whether that exclusion is accomplished by property, education or residence requirements. However, this explicit power to reduce a State's representation in the House of Representatives does not imply a Federal power to set uniform rules of voting qualifications, such as sex, education, property, etc., applicable in all States. It seems to be quite clear that the proponents of the 14th amendment had no intention of depriving the States of their historic right to set voting qualifications because they were well aware that the States would never ratify such an amendment.

The congressional debates on the 15th amendment, particularly as they relate to the subject of educational requirements set by the States, clearly indicate that the participants regarded article I, section 2 of the original Constitution as being still in force and meaning what it says: that the States have exclusive power to establish the qualifications of voters in national elections. The amendment was designed to limit the States' power in one and in only one particular: the States can no longer deny the franchise for reasons of race, color or previous condition of servitude. Consequently, the 15th amendment was never intended, directly, indirectly, or by any reasonable implication to empower the Congress to usurp the States constitutional power to establish electoral qualifications.

From what has been said, the inescapable conclusion seems to be that when a State requirement is fair and reasonable on its face, Congress has no specific grant or implied power from any combination of constitutional clauses to replace a valid State requirement with a substitute of its own choosing. In other words, if the present States statutes and constitutional provisions requiring a knowledge of English as a requirement for voting did not violate the 15th amendment or some other specific provision of the Federal Constitution, then any attempt of Congress to substitute a different qualification is unconstitutional on its face.

Mr. President, I have read statements upon S. 2750 from able attorneys general and distinguished professors of law from all areas of the United States. They concur in the opinion that S. 2750 is unconstitutional.

I

Twenty-one States have laws making literacy a qualification for voting. The charge that such laws are complicated and do not create objective standards is without validity. On the contrary, they are simple in nature and furnish definite, objective, and practical standards for determining the literacy of applicants for registration. Moreover, the Supreme Court has held that such laws are constitutional and do not violate any provision of the Constitution of the United States.

I shall now elaborate upon these propositions.

Twenty-one States have constitutional and statutory provisions establishing certain literacy requirements as qualifications for voting in both Federal and State elections, and subjecting persons who apply for registration to vote in such elections to appropriate literacy tests to determine whether they possess such qualifications. These States believe that these requirements and tests are reasonably designed to insure an independent and intelligent exercise of the right of suffrage. (*Lassiter* v. *Northampton County Election Board*, 360 U.S. 45, 3 L. Ed. (2d) 1072; *Stone* v. *Smith*, 159 Mass. 413, 34 N.E. 521.)

In each of these States, these constitutional and statutory provisions are a part of the laws which define "the qualifications requisite for electors of the most numerous branch of the State legislature" within the meaning of section 2 of article I of the Constitution and the 17th amendment, which say that the same persons shall vote for Senators and Representatives in Congress. (*Ex parte Yarbrough*, 110 U.S. 651, 28 L. Ed. 274; *United States* v. *Classic*, 313 U.S. 299, 85 L. Ed. 1368.)

Only seven of these States—namely, Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia—are located in the South. The other 14—Alaska, Arizona, California, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Hampshire, New York, Oklahoma, Oregon, Washington, and Wyoming—are scattered about in other areas.

All of the existing constitutional and statutory provisions of the States making literacy a qualification for voting are clearly nondiscriminatory within the purview of the 14th, 15th, and 19th amendments because they are applicable in like manner to all persons regardless of their race or sex. The Supreme Court has expressly held that literacy requirements of this nature are constitutional, and do not violate the 14th, the 15th, or the 19th amendment, or any other provisions of the Constitution of the United States. (*Lassiter* v. *Northampton County Election Board*, 360 U.S. 45, 3 L. Ed. (2d) 1072; *Guinn* v. *United States*, 238 U.S. 347, 59 L. Ed. 1340; *Williams* v. *Mississippi*, 170 U.S. 225, 42 L. Ed. 1012.)

Those who are bent on barring or limiting the right of the States to make literacy a qualification for voting charge that State literacy requirements are complicated, and that State literacy tests lack objectivity and are difficult to administer.

I challenge the validity of these charges. The truth is that State literacy requirements are simple, and that State literacy tests furnish definite, objective, and practical standards by which

the ability of applicants for registration to read and write can be easily and impartially determined. As I have demonstrated on the Senate flocr and in committee, the North Carolina literacy test, which is fairly representative and which requires that a voter be able to read and write a section of the State constitution in English, can be administered to an applicant for registration by a State registrar, or a Federal judge, or a Federal voting referee in about 1 minute.

The objectivity and simplicity of State literacy requirements and State literacy tests are made manifest by an examination of the constitutional and statutory provisions of the 21 States which make literacy a qualification for voting.

Let us see what each of these States requires of an applicant for registration.

Mr. MORSE. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I am glad to yield to the Senator from Oregon.

Mr. MORSE. Does the Senator agree, if we start with the major assumption that literacy tests are proper, that a part of the difficulty which presents itself to us in the issue before the Senate today is the allegation—whether true or false—that in the administration of the literacy laws in some of the Southern States a discriminatory policy is followed against the interests of Negroes? Does the Senator agree that that is one of the allegations being made?

Mr. ERVIN. That is an allegation being made. However, there is virtually no allegation that any of the existing literacy tests are not fair so far as their phraseology is concerned. For that reason the proposal does not constitute appropriate legislation to enforce the 14th amendment, because it attempts to substitute a Federal standard for the standards of 21 States, many of which have admittedly not practiced any discrimination against any persons on account of race or color.

Mr. MORSE. Mr. President, will the Senator yield further?

Mr. ERVIN. Yes.

Mr. MORSE. Is it not true—I understand the Senator agrees that it is—that one of the allegations being made in connection with the whole question of literacy test requirements is that in some Southern States discrimination is practiced against colored people, in that it is claimed—I am only stating the allegations—that questions are asked colored prospective voters which are not asked white prospective voters, and that in some instances questions of a very complicated nature are asked colored prospective voters and no questions are asked white prospective voters? Will the Senator from North Carolina tell me what safeguards any of the Southern States have established which would remove any basis for such charge, such as a personnel procedure whereby colored people put the questions or are present when the questions are put, to guarantee a uniformity of practice in regard to qualifying a voter?

Mr. ERVIN. I believe most of the States have a system comparable to that of North Carolina. If a registrar does what the Senator from Oregon is suggesting—which it is alleged some do—he violates the State law which he is administering. In North Carolina any person who feels aggrieved by the action of the registrar can appeal to the county board of elections, which has full power to review the complaint and adjust it. If the board rules adversely to him, he can appeal to the superior court. If the superior court of North Carolina rules adversely to him, he can appeal to the Supreme Court of North Carolina. And if the Supreme Court of North Carolina rules adversely to him, he can appeal to the Supreme Court of the United States.

Mr. MORSE. I think the Senator from North Carolina knows my personal fondness for him is such that my questions cannot be classified as questions of a heckler but are those of one who really wants the Senator's opinion, because the Senator is a distinguished former jurist from North Carolina. I have the highest respect for the Senator's legal ability. I seek to discuss with him momentarily the background of a part of this controversy.

Am I correct in my understanding that the Civil Rights Commission in some of the investigations and studies it has made since it has been appointed has found that discriminatory practices have been engaged in, in some of our southern jurisdictions, in regard to qualifying or disqualifying colored people as to eligibility to vote?

Mr. ERVIN. The Civil Rights Commission has reported that there has been some discrimination. My own reading of the Commission reports leaves me with an abiding impression that the extent of the alleged discrimination has been widely exaggerated. I say that for the reason that my reading of the reports of the Civil Rights Commission indicates to me that many of their so-called findings are based upon assumptions and inferences rather than upon actual investigations.

For example, they resort to the following kind of assumption and inference. They say that in X county in Y State there are so many Negroes of the age of 21 years and over. We assume that virtually all of them are literate and qualified to vote under State law. We find that few of them are registered in X county of Y State. We, therefore, infer that they have been wrongfully denied the right to register.

I had a colloquy with Dean Griswold, of the Harvard Law School, on that point. I said to him in substance:

Dean, do you not agree with me that when men undertake to draw inferences from statistics, sometimes they draw wrong inferences? To make my position concrete, I should like to call your attention to the fact that the 1960 census shows that somewhat in excess of 10 percent of the entire population of the United States is nonwhite. I wish to put the following question to you: What percentage of the students enrolled at the Harvard Law School at this moment is nonwhite?

Dean Griswold replied in essence:

I regret to tell you not over 1½ or 2 percent.

I said in substance:

Dean, don't you and I agree that it would be very unjust to infer from the facts that while the percentage of nonwhite people in the total population of the United States is over 10 percent, and that Harvard Law School has only 1½ to 2 percent of nonwhite persons enrolled in its student body, that those facts indicate that Harvard Law School is discriminating against nonwhites on the basis of their race?

He replied in essence:

Yes; I agree with you. That would be a very unfair inference to draw from those facts.

Mr. MORSE. Mr. President, will the Senator yield for another question?

Mr. ERVIN. I am delighted to yield.

Mr. MORSE. Let us assume a hypothetical county X in some Southern State. Let us assume that in that county there are 20,000 colored people of the age of 21 years or older. Let us further assume that investigation of the pollbooks showed that no more than 10 or 20 people out of the 20,000 were registered on the pollbooks. Does the Senator agree with me that those facts would at least be a sufficient major premise on which to reach the conclusion that we ought to take a look and find out why only 10 or 20 people out of 20,000 are registered on the pollbooks?

Mr. ERVIN. I would say that they ought to take a look but not make a blind assumption or inference.

Mr. MORSE. I am not making any assumption——

Mr. ERVIN. I say that the Civil Rights Commission should investigate instead of making an inference from figures. What I am about to say is not personal with respect to the Senator from Oregon or anyone else, but is to illustrate a point I wish to make. In my county a story is told about an old mountaineer who went down to the neighborhood grocery store to pay his grocery bill. When the storekeeper told him the amount of the bill, it exceeded what the old mountaineer thought was justly due. So he complained loudly that the amount of the bill was more than he actually owed.

The storekeeper got the ledger that contained the account of the old mountaineer, opened it to his account, and pointed out the amount due.

He said, "Here you see the figures. Figures don't lie."

The old mountaineer replied, "No, figures don't lie, but liars sure do figure."

Unfortunately, honest men often figure wrong when they start drawing inferences from statistics.

I am very much intrigued by the fact that in the most recent presidential election, in which a native son of Massachusetts was running for the office of President on the Democratic ticket and another native son of Massachusetts was running for the office of Vice President on the Republican ticket, 24 percent of the people of Massachusetts of voting age did not go to the polls and vote. I know that they were not deterred from so doing by discriminatory election laws or by sinful southerners in charge of the election machinery. What inference should we draw from that fact? I draw the inference that those people are like millions of people in other areas of the country. They are apathetic to govern-

mental matters and do not manifest any interest in exercising their right of franchise.

Mr. MORSE. May I make a comment on that point?

Mr. ERVIN. Yes.

Mr. MORSE. I think it might be subject to another inference, namely, that the candidates were not very inspiring.

Mr. ERVIN. My good friend the junior Senator from New York [Mr. KEATING], who is present in the Chamber, would contend that the unsuccessful candidate for President in the last election was a very inspiring candidate.

I note that 33 percent of the people of voting age in the State of California, which is the residence of Richard M. Nixon, did not take the trouble to go to the polls and vote either for or against Richard M. Nixon. What kind of inference can I draw from the fact that 33 percent of the people of that State absented themselves from the polls of California? I know there were no sinful southern election officials in charge of the election machinery of that State.

Another point intrigues me. My good friend from New York is always interested in the way the people in the Southern States vote and, I would say, rightly so. I do not criticize him for that. I think he is downright kind to be interested in us in that manner. But I note that in the general election of 1960, 33 percent of the people of voting age in the State of New York, for some reason other than being deprived of the right to vote by sinful southern election officials, did not go to the polls and vote. So I infer from the question of the Senator from Oregon to me, and also from the points that I have discussed, that many millions of people in this country are apathetic toward governmental matters and are not interested enough in voting to go to the polls. I think the percentage of such people are naturally higher in one-party States or in one-party counties because no political party will spend money and exert an effort to get a large number of people to go out and vote for candidates who are not opposed.

Mr. MORSE. Mr. President, will the Senator yield for another question?

Mr. ERVIN. I am glad to yield.

Mr. MORSE. I point out that the apathy of which the Senator spoke in regard to exercising the most precious right every man and woman in our country has—the right to vote—is pretty typical in a cross-section view of the United States. That statistic is alarming.

But I do not think there is any cause for speculation as to the relationship between the meaning of that statistic and the possible or probable meaning of another statistic, upon which I seek my friend's view. That is the statistic found in reports and discussions in regard to the electoral lot of the colored people in many of our Southern States. In county after county, year after year, but a small fraction—and, in some instances, I understand, one cannot be found—of the colored people get their names on the pollbooks. As one who has tried to find out what the facts are in regard to the southern situation, I ask the Senator from North Carolina if he agrees with me that if we find that repetitive pattern year after year, we ought to try to have presented in debate the cause-and-effect explanation of that result?

Mr. ERVIN. Instead of Senators giving explanations of the matter on the floor of the Senate out of what may be ignorance of the facts, I believe that the Civil Rights Commission or some other authority, such as the Department of Justice, should conduct some actual investigations and ascertain what the facts are.

The truth is that many people do not judge the South quite as fairly as does the Senator from Oregon. What does the Civil Rights Commission report state with respect to South Carolina? It states, in substance, that "we have received no voting complaints from South Carolina, and consequently we infer that South Carolina has been wrongfully coercing people not to make voting complaints." I would not like to be hanged by some of the surmises and inferences that are being made.

Mr. MORSE. Mr. President, will the Senator yield further?

Mr. ERVIN. I am delighted to yield to the Senator from Oregon.

Mr. MORSE. Some time ago I attended a meeting at which the speaker was discussing this problem from the standpoint of the statistical examples to which I have been pointing in my colloquy with my friend from North Carolina. He told a story which I had never heard, but which I am sure my friend from North Carolina has heard, and probably has rebutted many times. It is one of those persuasive stories that usually can move an audience. He told the story of Sam Brown, a colored man in one of the Southern States, who tried to qualify to vote.

The registrar asked him, "Who is the State commissioner of labor?"

Sam Brown scratched his head and said he did not know.

The second question was: "Who is the State superintendent of instruction?"

Sam rubbed his hands and said he did not know.

The registrar asked, "What do you know?"

The applicant said, "I know that this colored man is not going to be allowed to vote."

The speaker then went on to say that investigation showed that similar questions were not asked of white prospective voters; in fact, that no questions whatever were asked of them.

I do not know what the facts are. I want my friend from North Carolina to know that. I certainly do not present that story as evidence. It is illustrative, at least, of the allegations which are being made.

I close my inquiry of the Senator with this question: Is it the opinion of the Senator that there is uniform and impartial application of the literacy test laws in the South, irrespective of whether the applicant is a white person or a colored person?

Mr. ERVIN. I will give the Senator from Oregon my honest judgment——

Mr. MORSE. That is what I want the Senator to do.

Mr. ERVIN. I should say that that is true in the South generally. However, there are probably some limited areas of which it is not true. I also say to the Senator from Oregon that it is not necessary to pass this bill to cure the situation in any of those limited areas, because there are already enough laws on the books to deal with the situation.

I say this to the Department of Justice, by way of a story, since we are now telling stories. I have told this story many times, but I believe it illustrates the point I am trying to make. It concerns John, who was courting his sweetheart Mary. They were sitting on a bench together in the moonlight, with the scent of fragrant roses permeating the atmosphere in surroundings that were calculated to arouse the spirit of romance in anyone's heart. John said to Mary, "If you was not what you is, what would you like to be?"

Mary said, "If I was not what I is, I would like to be an American Beauty rose."

Then she turned the question on John and said, "John, if you was not what you is, what would you like to be?"

John said, "If I wasn't what I is, I'd like to be an octopus."

Mary said, "What is an octopus?"

John said, "Mary, an octopus is some kind of animal or fish or something that's got a thousand arms."

Mary said, "John, if you was an octopus and had a thousand arms, what would you do with them?"

John said, "Mary, I would put every one of them arms around you."

Mary said, "Oh, g'wan away. You ain't usin' the two arms you got."

I say to the Department of Justice that it has plenty of arms, in the form of laws, to reach around all offending election officials and put an end to all alleged wrongs in this field. It already has sufficient laws available to do it.

Mr. MORSE. I said I was not going to ask any more questions, but the Senator's story intrigues me. I wonder if the Senator will permit me to make one further observation.

Mr. ERVIN. I am delighted to have the Senator do so.

Mr. MORSE. As usual the Senator is gracious in extending to me every courtesy in this colloquy. My question is this. If the decision is made to use this bill as the arm of enforcement of the constitutional right to enjoy the privilege of voting, does the Senator from North Carolina believe that if it were enacted it would make possible the registration of more colored people in the South, with the resulting guarantee to vote?

Mr. ERVIN. I do not. I believe, on the contrary, it would impede it. I will give the Senator my honest opinion. If a refractory election official desires to deny anyone the right to register this bill would be the perfect instrument for him to use. I say this because when a person applied for registration, the registrar could say, "Under a recent enactment by Congress, State literacy tests have no legal potency when they are

applied to persons who have completed the sixth grade in any accredited school. I do not wish to do a vain thing. Therefore, I am not going to subject you to a literacy test until I can find out whether you have completed the sixth grade."

If the applicant should say that he had completed the sixth grade, the election official, if he were a refractory person, could say, "You will have to bring me legal proof of the fact that you have completed the sixth grade before I can register you."

On the other hand, if the applicant should say he had not completed the sixth grade, the refractory election official could still say, "You must bring me legal proof that you have not completed the sixth grade before I can give you a literacy test and register you."

So I believe that the bill, instead of facilitating the registration of persons, could be used by a refractory registrar as an instrument to prevent people from registering.

Mr. MORSE. I thank the Senator very much.

Mr. ERVIN. I thank the Senator for his question. I appreciate very much the Senator's comments with reference to myself. I return the compliment to him because I consider the senior Senator from Oregon one of the great constitutional lawyers of the country.

Mr. MORSE. I thank the Senator very much.

Mr. ERVIN. Before this colloquy occurred I was undertaking to describe the literacy tests of the various States.

In Alaska, one must be able to read or speak English. In Washington, he must be able to read and speak English. In New York and Oregon, he must be able to read and write English. In Hawaii, he must be able to speak, read, and write English or Hawaiian. In Connecticut and Wyoming, he must be able to read provisions of the State constitution or statutes in English. In Arizona, he must be able to read provisions of the Federal Constitution in English, and write his name. In California, Delaware, Maine, and Massachusetts, he must be able to read provisions of the State constitution in English and write his name. In Alabama, he must be able to read and write an article of the Federal Constitution in English. In Georgia, he must be able to read and write correctly in English a paragraph of the State or Federal Constitution. In New Hampshire, he must be able to read the State constitution in English and write. In North Carolina, Oklahoma, and South Carolina, he must be able to read and write a section of the State constitution in English. In Virginia, he must be able to write his voting application.

None of the States, except Louisiana and Mississippi, require an applicant for registration to understand or interpret what he speaks or reads or writes. In Louisiana, he must be able to read a clause of the State or Federal Constitution in English or his mother tongue, and give a reasonable interpretation of it; and in Mississippi, he must be able to read and write a section of the State constitution in English, and give a reasonable interpretation of it. These provisions have been upheld by the courts (*Trudeau* v. *Barnes*, 65 F. (2d) 563).

None of the States, except Alabama, Louisiana, and Mississippi, require a literate applicant to have any understanding of other subjects. In Alabama, he must "embrace the duties and obligations of citizenship under the State and Federal Constitutions." In Louisiana he must understand the duties and obligations of citizenship under a republican form of government; and in Mississippi, he must be able to demonstrate a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government. Whether these particular requirements are compatible with the decision of the three-judge district court in *Davis* v. *Schnell* (81 F. Supp. 872) is a question for the courts and not Congress.

Be this as it may, the literacy and understanding tests of Alabama, Louisiana, and Mississippi are in complete harmony with the act of Congress prescribing the qualifications which must be possessed by aliens who seek to become naturalized citizens. Under this act, no alien can become a naturalized citizen of the United States unless he can "demonstrate an ability to read, write, and speak English" and has "a knowledge and understanding of the principles and form of the government of the United States" (8 U.S.C. 1423).

The test of the literacy of an applicant for registration is simply the "ability to read in a reasonably intelligent manner and to write in a fairly legible way, even though each and every word may not be accurately pronounced or spelled"—29 C.J.S. "Elections," section 26. Any election official who imposes a more stringent test upon any applicant for registration violates the literacy laws under which he professes to act.

In the light of the fact that this test is used daily by Federal and State agencies and schools to determine the literacy of multitudes of persons for multitudes of purposes, it is passing strange to hear the advocates of S. 2750 charge that the test is complicated or lacking in objectivity. In so doing, they are engaging in the act of complicating simplicity.

II

There is no sound reason for Congress to pass S. 2750. This is true because existing Federal laws are sufficient to secure to every qualified person of any race his right to vote in any Federal election, and to punish any State election official who undertakes to deprive him of such right.

The advocates of S. 2750 candidly admit that the bill is aimed at some five or six Southern States. They frankly admit that the enactment of the bill is not warranted by conditions existing anywhere else in the country. I note with satisfaction that most of them omit North Carolina from their listings of sinning States.

The advocates of the bill base their demand for the enactment of the bill upon the report of the Civil Rights Commission to the effect that in about 129 counties in certain Southern States election officials wrongfully use State literacy tests and State understanding tests to disfranchise literate Negroes who possess all the other qualifications for voting.

My study of the report of the Civil Rights Commission leaves me with the abiding impression that its conclusions on this score might well be taken with a few grains of salt. An analysis of the methods by which the Commission reaches its conclusions shows that most of such conclusions are not based upon actual investigations, but are founded upon assumptions and inferences. I alluded to this a moment ago in my colloquy with the Senator from Oregon [Mr. MORSE].

The Commission bases many of its conclusions upon assumptions and inferences of this nature:

> There are so many Negroes of the age of 21 years and upward in X county. Few, or none, of these Negroes are registered to vote in X county. We assume that virtually all of them are literate and possess all the other qualifications for voting. Consequently, we infer that they are being wrongfully denied the right to vote by State election officials through the maladministration of literacy tests and other evil practices.

Another method used by the Civil Rights Commission to draw unfavorable inferences concerning voting practices in some Southern States is this:

> We have received no complaints of voting denials from Y county. We infer that this is true because members of the Caucasian race in Y county have intimidated the Negroes of Y county and thus prevented them from making such complaints.

Queer opinions are entertained by some persons from other areas of the Nation about members of the Caucasian race who live in the Southern States. As a result of my observations in the North, East, and West, I have reached the definite conclusion that the overwhelming majority of the people who reside in all areas of the country are kind and gentle. I assert that this is true of southerners as well as of the people of other areas of the Nation.

I shall allude again to something which I mentioned in my colloquy with the Senator from Oregon because I believe it bears repetition. When I hear men drawing inferences from statistics, I am reminded of an old story which is told in my county.

An old mountaineer went to the neighborhood store to pay his bill for goods he had bought on credit. When the storekeeper advised him of the amount of the bill, the old mountaineer complained very loudly that the bill was far more than was justly due. The storekeeper then opened his ledger to the old mountaineer's account and pointed out the figures constituting the account and said, "Here are the figures. You know figures don't lie." The old mountaineer responded: "I know figures don't lie, but liars sure do figure."

Unfortunately, honest men sometimes figure when they find it more convenient to draw inferences than to conduct actual investigations to sustain their positions. Such inferences are often unjustified.

This assertion finds support in a statement made by Dean Griswold while he was testifying in behalf of the Civil Rights Commission before the Subcommittee on Constitutional Rights.

The nonwhite poulation of the United States is somewhat in excess of 10 percent of the total population. Dean Griswold frankly admitted that only 1.5 percent or 2 percent of the students enrolled in the Harvard Law School, of which he is dean, are nonwhites. He and I agreed it would not be fair to infer from this fact that Harvard Law School discriminates against nonwhites in selecting its student body. We agreed that economic and other factors constitute the explanation for this discrepancy between the white and nonwhite enrollment at the Harvard Law School.

The tragic truth is that there are millions of American citizens of all races in all areas of the country who are apathetic toward governmental matters and do not manifest any interest whatever in exercising the right of suffrage.

It is not surprising that the percentage of those of voting age who do not vote is higher in one-party States or one-party counties than in other areas. No political party will exert efforts and spend money to persuade persons to go to the polls to vote for party candidates who are unopposed.

The apathy of large segments of persons of voting age is well illustrated by the fact that the percentage of them who did not vote in the closely contested States of California, Illinois, Massachusetts, Montana, New York, and Pennsylvania during the presidential election of 1960 were as follows:

	Percent
California	33
Illinois	24
Massachusetts	24
Montana	29
New York	33
Pennsylvania	29

One of the strange events which occurs in debates upon this subject is that those who advocate bills like this always infer that persons who are of the nonwhite race in the South and fail to vote, fail to do so because they are discriminated against. But the same inference is not drawn from the failure of other persons to vote who reside in other sections of the country. Actually, the number of people of voting age who failed to vote in the last presidential election in the States I have named substantially exceeded all of the people of voting age who failed to vote in all the Southern States having literacy tests.

When the Attorney General testified before the Subcommittee on Constitutional Rights, he asserted that in one Southern State several college professors of the Negro race were denied the right to vote on the ground of illiteracy and that this fact discloses the necessity of enacting S. 2750 into law.

I dislike to disagree with the Attorney General. I am compelled to say, however, that this fact does not show any necessity for enacting S. 2750. On the contrary, it merely shows, if true, that the Attorney General in office at the time the event occurred was derelict in the performance of his duty in that he did not prosecute the offending election official or officials under one of the acts of Congress making such conduct a Federal crime punishable by both fine and imprisonment.

In fairness, I wish to add that the present Attorney General cannot be justly charged with any lack of diligence in this area of our national life.

I wish to make it crystal clear that I deplore the act of any election official in any Southern State who wrongfully denies any person of any race his right to register and vote. I do this for two reasons: First, he does a gross wrong to the individual concerned; and second, he adds immeasurably to the task of those of us who reverence the Constitution and seek to preserve it for the benefit of all Americans of all generations and races. I lay down this second proposition because of the character of the legislative proposals which are given the magic name "civil rights bills."

Virtually all of these bills are incompatible with the Constitution. Unfortunately, however, most of them are exceedingly complex and can be rightly interpreted only when they are read in the light of constitutional history and precedents.

It is perhaps inevitable that this should be so. Those who draft them are somewhat impatient men who seek easy solutions to hard problems. In so doing, they devise shortcuts to the ends they desire, and are apparently contemptuous of the obstacles they encounter, even when such obstacles are precious constitutional and legal principles. Their impatient zeal seems to blind them to a truth taught by the experiences of mankind: Hard problems do not admit of easy solutions, and shortcuts are the most direct roads to disaster.

Any election official in any Southern State who wrongfully denies any qualified Negro the right to vote ought to be taken to task, but he ought to be taken to task in a constitutional manner.

I assert, without fear of successful contradiction, that Senate bill 2750 is not only unconstitutional, but is wholly unnecessary. This is true because existing Federal laws are sufficient to secure to every qualified voter of any race anywhere in the United States the right to vote.

Let me enumerate and make a brief analysis of these existing Federal laws. They are as follows:

First. Under section 242 of title 18 of the United States Code, a State election official commits a crime, punishable by a fine of as much as $1,000 and imprisonment for as much as 1 year, if he willfully deprives any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if he willfully deprives any qualified person of his right to vote in a State election on account of his race or color—*United States* v. *Classic* (313 U.S. 299, 85 L. Ed. 1368); *Guinn* v. *United States* (238 U.S. 347, 59 L. Ed. 1340).

Second. Under section 241 of title 18 of the United States Code, State election officials commit a crime, punishable by a fine of as much as $5,000 and by imprisonment for as much as 10 years, if they conspire to deprive any qualified person of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or if they conspire to deprive any qualified citizen of his right to vote in a State election on account of his race or color—*United States* v. *Classic* (313 U.S. 299, 85 L. Ed. 1368); *United States* v. *Mosely* (238 U.S. 383, 59 L. Ed. 1355); *Quinn* v. *United States* (238 U.S. 347, 59 L. Ed. 1340).

Third. Under section 1983 of title 42 of the United States Code, any qualified person may maintain a civil action for damages against any State election official who deprives him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who deprives him of his right to vote in a State election on account of his race or color—*Lane* v. *Wilson* (307 U.S. 268, 83 L. Ed. 1281); *Nixon* v. *Herndon* (273 U.S. 576, 71 L. Ed. 759); *Myers* v. *Anderson* (238 U.S. 368, 59 L. Ed. 1349).

Fourth. Under section 1983 of title 42 of the United States Code, any qualified person may maintain a suit in equity to obtain preventive relief by injunction against any State election official who threatens to deprive him of his right to vote in an election for Senators or Representatives in Congress for any reason whatever, or who threatens to deprive him of his right to vote in a State election on account of his race or color—*Baskin* v. *Brown* (174 F. (2d) 391).

Fifth. Under the Civil Rights Act of 1957, the Attorney General may maintain a civil action of an equitable nature, at public expense, in the name of the United States, against any State election official, to obtain preventive relief by injunction or other order, in behalf of any qualified person, if the election official is about to deprive such person of his right to vote in a Federal election for any reason whatever, or if the election official is about to deprive such person of his right to vote in a State election on account of his race or color—42 U.S.C. 1971; Public Law 85-315; *United States* v. *Raines* (362 U.S. 17, 4 L. Ed. (2d) 524).

Sixth. Under the Civil Rights Act of 1960, in case the court finds in a civil action of an equitable nature, brought under the Civil Rights Act of 1957, that any qualified person has been deprived of his right to register to vote in any election, on account of his race or color, and that such deprivation was pursuant to a pattern or practice, the court must receive applications from any other persons of the same race or color within the affected area whom State election officials have refused to register, and order such election officials to register them to vote in both Federal and State elections, if it appears to the court, from testimony taken by the courts or voting referees appointed by the court, that they have the qualifications for voting established by State law. The court may appoint an unlimited number of voting referees, who are empowered to take the testimony of applicants in ex parte proceedings from which the State election officials concerned are barred, and report

such evidence, together with their findings thereon, to the court. Under the act, the court accepts the testimony given by the applicants before the voting referees as to their ages, residences, and prior efforts to register or otherwise qualify to vote as prima facie evidence, considers no testimony whatever as to the literacy and understanding of other subjects by the applicants, save that offered by them before the voting referees, and automatically orders the registration of all applicants found qualified by the voting referees, except in those cases in which the State election officials file verified public records or affidavits of witnesses having personal knowledge of the facts, indicating that the findings of the voting referees are not true—42 U.S.C. 1971; Public Law 86-449.

In the light of these six Federal statutes, it is nonsense to say that any additional law is necessary to secure to any qualified citizen his right to vote.

Mr. ELLENDER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I am delighted to yield to the distinguished Senator from Louisiana.

Mr. ELLENDER. I presume that the distinguished Attorney General knew about these laws. I also presume that they were brought to his attention during the hearings.

Mr. ERVIN. They were; I inquired of him about them.

Mr. ELLENDER. What excuse, if any, did he give for not utilizing the laws now on the statute books, to see to it that qualified voters be permitted to vote?

Mr. ERVIN. The only excuse he gave was not very convincing to those of us who have spent more of our lives in the courthouses than in legislative bodies. He said the trial of these cases was too cumbersome, because in one case they had 180 witnesses. But, as the Senator knows, under the Civil Rights Act of 1960, if a trial is held and in that trial it appears that some person has been denied his right to vote on account of his race or color, and that the denial was pursuant to a practice or pattern, no other case of that nature has to be tried in that area, because the judge, acting either in person or through voting referees appointed by him, can receive applications from members of the same race residing in the same area and proceed to determine their qualifications if they have been denied registration by State officials; and, if they are found qualified, he can order them registered. In other words, after the court had found that there was a denial of the right to vote on acount of race or color, and that such act was in pursuance of a pattern or practice, the judge could, either by himself or through voting referees, determine the qualifications of voters of the same race and order them registered.

Mr. ELLENDER. Then, according to the Attorney General, it is too difficult to do that; it takes too much time. In other words, he would rather do violence to the Constitution by the enactment of such a bill as is now pending than utilize existing legislation. Is that correct?

Mr. ERVIN. That was the position he took. He said there were 129 counties in which bad conditions existed. Under the act of 1960, if what has been alleged in this effort to persuade Congress to violate the Constitution can be proved, 1,000 voting referees could be appointed by Federal courts for each of the 129 counties, and the Federal courts could order the registration of all persons found to be qualified and thus take the matter out of the hands of the States to all practical intents and purposes. It is nonsense to say there is any necessity for enacting this bill or any other law, in addition to those already on the statute books, to secure to any qualified citizen anywhere in the United States the right to vote.

Mr. ELLENDER. It was my contention, not only when other so-called civil rights bills were passed during recent years, but when the matter first came before the Senate, that sufficient laws were on the statute books then to protect voting rights if only they were used.

Mr. ERVIN. The Senator is absolutely correct in that position.

Mr. ELLENDER. That is why I say this bill is simply a political move by some of these "do gooders"—and they are also in the Senate—to make a showing so that they may get a few more votes back home.

Mr. ERVIN. This bill is completely political.

Mr. ELLENDER. There is no doubt about that.

Mr. ERVIN. It is a political bill, saturated with politics, and patently unconstitutional. There is absolutely no reason whatever for the enactment of the bill. I say to the Senator from Louisiana that this is the truth of the matter: I claim for myself a very sweet disposition——

Mr. ELLENDER. And the Senator has one.

Mr. ERVIN. But on occasions I have almost lost it. This is true because since I have been in the Senate of the United States, this body has spent more time discussing on the floor of the Senate so-called civil rights bills than it has discussing problems incident to the survival of the Nation.

Mr. ELLENDER. I have not any doubt about that.

Mr. ERVIN. With due respect to all concerned, the reason these matters come up is that various people in various organizations, for one reason or another, have found it profitable, politically or financially or emotionally, to spend a large part of the time and energy of the Nation in agitating racial matters.

Mr. ELLENDER. Many of the organizations that are agitating for this measure do not really want this bill to pass. That would deprive them of an opportunity to collect more money to keep themselves in business. I have often remarked that whenever problems of this kind get into politics, the people dealing with them seem to lose their sense of reason. This is a good example of that statement, in my humble judgment.

Mr. ERVIN. Mr. President, to continue with my statement, criminal prosecutions under sections 241 and 242 of title 18 of the United States Code and civil actions for damages under section 1983 of title 42 of the United States Code are triable in Federal district courts before Federal district judges and juries. The Federal district judges hold lifetime appointments and are completely devoted to the legal concept that all men are entitled to stand equal before the law. The juries are drawn from jury boxes prepared by Federal officials. The trials are usually held in places comparatively remote from the area in which the wrongs allegedly occur. Moreover, the Federal district judges are empowered by law to express to trial jurors their opinions on the facts. Anyone who has practiced in the Federal courts knows from personal experience that trial jurors usually return verdicts conforming to any opinion on the facts expressed to them by the trial judges.

Suits in equity under section 1983 of title 42 of the United States Code and civil actions of an equitable nature under the Civil Rights Acts of 1957 and 1960, are triable in Federal district courts by Federal district judges, who sit without juries and find the facts as well as declare the law.

If the Federal district judge trying a civil action of an equitable nature under the Civil Rights Acts of 1957 and 1960, finds that any person has been denied his right to vote on account of his race or color pursuant to a practice or pattern, such Federal district judge, acting either in person or through voting referees unlimited in number, can take actual charge, to all practical intents and purposes, of passing upon the qualifications for voting and registering for all elections, Federal and State, of all other persons of the same race residing within the affected area not previously registered by State election officials. As I have demonstrated on the Senate floor and in committee, such judge or a voting referee appointed by him can determine an applicant's ability to read in less than a minute, and can determine the ability of hundreds of applicants to read within just a few minutes by writing a short constitutional provision upon a blackboard and directing such applicants to copy the same.

In the light of what I have just said, there is absolutely no basis for any assertion—I do not care from what source it comes—that it is necessary to enact S. 2750 or any law in addition to those already upon the statute books.

III

Section 2 of S. 2750 is the only operative part of the bill. This is true for one or the other of two alternative reasons. The most reasonable construction of section 1 is that its recitations are merely designed to induce its advocates to believe that they are justified in doing the constitutional evil section 2 envisions because they can hope that some good will come from such evil. But if section 1 is designed to have any legal effect whatsoever, it is clearly unconstitutional. This is true for two reasons. In the first

place, Congress cannot increase its own constitutional power to legislate or decrease the constitutional powers of the States to do so by making factual assertions and legal conclusions, regardless of whether such factual assertions or legal conclusions are true or false. In the second place, Congress cannot legislate the truth of facts upon which rights depend. This power belongs to the judicial branch of the Government. If the purpose of section 1 is to prevent the courts from determining the truth or falsity of its factual recitals in particular cases or litigants from disproving them in particular cases, then it violates sections 1 and 2 of article III, which vests the judicial power of the United States in the Federal courts, and the fifth amendment, which guarantees due process of law to litigants.

Let me elaborate upon these propositions.

I respectfully submit that the only operative part of S. 2750 is section 2. This is true either because the drafters of the bill did not intend section 1 to have any legal effect or because section 1 is unconstitutional.

Section 1 recites, in essence, that State election officials frequently pervert State literacy and understanding tests to rob literate Negroes, possessing all other legal qualifications for voting, of their right to vote in Federal elections solely upon racial grounds; that persons who have completed six primary grades in a public school or accredited private school cannot reasonably be denied the right to vote in Federal elections because of illiteracy; that lack of proficiency in the English language does not provide any reasonable basis for excluding Spanish-speaking citizens of America from the right to vote in Federal elections; that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote in Federal elections; and that Congress has the power under the Constitution to enact section 2 of the bill.

The recitation that lack of proficiency in the English language does not provide a reasonable basis for excluding Spanish speaking citizens of America of the right to vote is wholly inconsistent with the recent decision of the Supreme Court adjudging valid State laws restricting literacy tests to proficiency in the English language—*Lassiter* v. *Northampton County Elections Board* (360 U.S. 45; 3 L. Ed. (2d) 1072).

For the reasons already given, the recited conclusion that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote in Federal elections is without foundation. I shall not comment for the time being upon the recited conclusion that Congress has the power under the Constitution to enact section 2. Suffice it to say at this point that such recital is inconsistent with the Constitution itself.

When one attributes to the words of section 1 their obvious meaning, he comes to the conclusion that the framers of the bill did not intend them to have any legal effect whatsoever, but that, on the contrary, they designed them to operate as the counterpart of the first six verses of the third chapter of Genesis. By this I mean that they intended the recitals of section 1 to encourage the advocates of the bill to lay the flattering unction to their souls that they are justified in doing the constitutional evil the bill envisions because they hope that some good will result from such evil.

I certainly am reluctant to suggest that the framers of S. 2750 inserted the factual assertions and the legal conclusions in it because they believed that Congress could increase its constitutional power to legislate and decrease that of the States by the simple expedient of making factual assertions and legal conclusions in a preamble to a bill. If this were possible, Congress could arrogate to itself complete legislative power over all things under the sun simply by uttering a legislative lie. The limitations which the Constitution imposes upon the power of the Congress to legislate in respect to the franchise are not so puny as this.

I find it difficult to believe that the framers of S. 2750 intended section 1 to have any legal effect whatsoever. I base this observation upon the self-evident truth that whether or not a particular Negro, possessing all other qualifications for voting, has been wrongfully denied the right to vote in a Federal election by a State election official through the maladministration of a State literacy test, or whether or not a particular applicant for registration for Federal elections who has completed the sixth grade is actually literate or illiterate, presents an issue of fact and not a question of law. Section 1 could not possibly have been designed to effect any legal purpose other than that of foreclosing one or the other of these issues in particular cases.

If this is its purpose, then section 1 would be clearly unconstitutional. This is so because Congress is without power to legislate the truth of facts upon which rights depend. The power to determine the truth or falsity of such facts belongs to the judicial department of the Government.

If its factual recitals are to be construed as an attempt by Congress to bar inquiry by the courts into their truth or falsity or to deny litigants an opportunity to disprove them, section 1 of S. 2750 violates sections 1 and 2 of article III of the Constitution, which vests the judicial power of the United States in the Federal courts, and the fifth amendment, which guarantees to litigants due process of law—"Wigmore on Evidence," third edition, section 1353; *Bailey* v. *Alabama* (219 U.S. 219 55L. ed. 191).

Congress cannot evade the constitutional provisions which deny it the power to prescribe qualifications for voting by section 1 regardless of whether such section is construed as an attempt to establish a conclusive presumption or as an attempt to create a rule of substantive law.

As the Supreme Court declared in *Heiner* v. *Donnan* (285 U.S. 312, 76 L. ed. 772):

> This Court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the 14th amendment. "It is apparent," this Court said in the Bailey case (p. 239) "that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions."

If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.

In passing from this phase of the subject, I wish to note that informed persons in the field of education agree that the alleged completion of a sixth primary grade does not insure a person's literacy. This is true because laws which compel compulsory school attendance have produced what are known as social promotions—promotions made regardless of the acquisition of knowledge in order to prevent the psychological disaster inherent in keeping physically large children of small mental strength in classes designed for small beginners.

IV

S. 2750 is not designed to prevent State election officials from unlawfully using State literacy tests to disfranchise in Federal elections literate persons possessing all other qualifications for voting. On the contrary, it is designed to compel the States to permit illiterate persons to vote in Federal elections if such illiterate persons have completed the sixth grade. Instead of facilitating the registration of qualified persons, S. 2750 would establish a new Federal qualification which refractory election officials may employ to delay or frustrate the registration of any or all persons seeking registration for Federal elections.

Let me elaborate upon these propositions.

The manifest purpose of the advocates of S. 2750 is to abolish State literacy requirements for Federal elections as to persons who have completed the sixth grade, and enable such persons to vote in such elections regardless of whether they can read and write.

They know, however, that they cannot do this in a direct and forthright way because under the Constitution the power to prescribe qualifications for voting in both Federal and State elections belongs to the States and not to the Congress. So they undertake to beat what they conceive to be a legal devil around the stump. As a consequence, S. 2750 moves in a mysterious way its wonders to perform. Let us read and analyze section 2, which is the only operative part of the bill.

Section 2 provides in express words that no State election official can deny to any person otherwise qualified by law the right to vote in any Federal election "on account of his performance in any examination, whether for literacy or otherwise, if such person has not been adjudged incompetent and has completed the sixth primary grade in any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico."

When this legal jargon is put in plain language, it comes to this: Although the constitutional and statutory law of a State may make literacy a qualification for voting in all elections, and although a particular applicant for registration may reveal his illiteracy by his performance in an examination or test for literacy conducted by an election official of the State in compliance with such law, the State election official cannot deny the illiterate applicant the right to vote in any Federal election on account of his illiteracy if such illiterate applicant "has completed the sixth primary grade in any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico."

This being so, S. 2750 is not even designed to prevent State election officials from unlawfully using State literacy tests to disfranchise in Federal elections literate persons possessing all of the other qualifications for voting. On the contrary, it undertakes to compel the States to permit illiterate persons to vote in Federal elections if such illiterate persons have completed the sixth primary grade in any of the designated schools.

Since it is to take effect upon its enactment, S. 2750, if constitutional, would do these things forthwith in case it becomes law:

First. It would nullify the laws of the 21 States which make actual literacy a qualification for voting in Federal elections as to all persons who have completed the sixth primary grade in any designated school.

Second. It would rob the other 29 States of their present power to make actual literacy a qualification for voting in Federal elections as to all persons who have completed the sixth primary grade in any designated school.

Third. It would rob all of the 50 States of their present power to make actual literacy in the English language a qualification for voting in Federal elections as to Spanish-speaking persons who have completed the sixth primary grade in any designated school in Puerto Rico.

Fourth. It would substitute for the simple literacy tests prescribed by State laws a new Federal qualification for voting in Federal elections, which could be used by refractory State election officials to delay or frustrate the registration of any or all persons seeking registration for Federal elections.

This fourth observation merits comment. If S. 2750 should be enacted, a State election official could say to any person applying for registration for a Federal election: "Under a recent act of Congress, State literacy laws no longer have any legal potency as to persons who have completed the sixth grade. I do not wish to do a vain thing. Consequently, I will not undertake to test your literacy under the law of the State if you have completed the sixth grade."

If the applicant asserts that he has completed the sixth grade, the election official can say: "You must furnish me legal proof of that fact before I will register you."

If the applicant states that he has not completed the sixth grade, the election official can say: "You must furnish me legal proof of that fact before I can subject you to a literacy test and register you."

If the objective of S. 2750 is to make whipping boys out of some Southern States for the gratification of those who find it profitable in one way or another to agitate racial matters, these comments are without significance. But if the objective of the bill is to facilitate the registration of literate persons possessing the other qualifications for voting, they ought to give Congress pause.

V

S. 2750 constitutes an attempt to have Congress prescribe a Federal qualification for voting in elections to fill Federal offices. Consequently, it is wholly incompatible with section 2 of article I, clause 2 of section 1 of article II, and the 17th amendment, which vest the power to prescribe the qualifications of voters in such elections in the States. S. 2750 cannot be sustained as valid under the 14th or 15th amendments because it is not confined in its operation to the prohibitions of such amendments on State action. In the first place, S. 2750 applies to each State immediately upon its enactment regardless of whether it has violated any of the prohibitions of the amendments. In the second place, S. 2750 undertakes to supersede the State legislatures and to legislate affirmatively with respect to qualifications for voting, which is a subject lying solely within the domain of State legislation. S. 2750 does not constitute appropriate legislation to enforce the 15th amendment because it does not deal with discrimination in voting on account of race or color. On the contrary, it deals entirely with matters falling within the domain of State legislation, that is to say, literacy and understanding tests.

I should like to elaborate. Let me deal at the outset with the contention of some of its advocates that S. 2750 does not undertake to prescribe qualifications for voting; but, on the contrary, attempts to set up a Federal standard by which the reasonableness of the State literacy tests can be measured. Even such astute lawyers as Tweedledum and Tweedledee never attempted to split legal hairs so finely.

Congress has no legislative powers save those given it by the Constitution. As the Supreme Court so clearly held in *Pope* v. *Williams* (193 U.S. 621, 48 L. Ed. 817), Congress has no power to prescribe standards to determine the reasonableness of legislation which the States have the constitutional power to enact. The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. Moreover, no agency of the Federal Government has any authority to supervise in any way nondiscriminatory State literacy tests—*Guinn* v. *United States* (238 U.S. 347, L. Ed. 1340). When all is said, S. 2750 certainly attempts to prescribe a qualification for voting in Federal elections. As has been pointed out, it undertakes to say that State election officials must permit any illiterate person to vote in a Federal election if such person has completed the sixth grade.

Congress has no power to enact S. 2750 for the very simple reason that the Constitution itself deprives the Congress of the power to prescribe the qualifications for voting for presidential and vice presidential electors and for Senators and Representatives in Congress.

Clause 2 of section 1 of article II expressly prescribes that each State shall appoint its presidential and vice presidential electors in such manner as its legislature may direct—*McPherson* v. *Blacker* (146 U.S., 36 L. Ed. 869). Section 2 of article I and the 17th amendment expressly provide that the only persons eligible to vote for Senators and Representatives in Congress in any State are those who "have the qualifications requisite for electors of the most numerous branch of the State legislature."

As an inevitable consequence of these constitutional provisions, a State defines who may vote for the popular branch of its own legislature and the Constitution of the United States says that the same persons shall vote for Senators and Representatives in Congress in that State—*Ex parte Yarbrough* (110 U.S. 651, 28 L. Ed. 274).

For these reasons, the courts declare, in substance, that the constitutional power to prescribe qualifications for voting both in Federal and State elections belongs to the States and not to the Congress—*United States* v. *Classic* (313 U.S. 299, 85 L. Ed. 1368); *Breedlove* v. *Suttles* (302 U.S. 277, 82 L. Ed. 252); *Swafford v. Templeton* (185 U.S. 492, 46 L. Ed. 1005); *Wiley* v. *Sinkler* (179 U.S. 58, 45 L. Ed. 84); *Ex parte Yarbrough* (110 U.S. 651, 28 L. Ed. 274); *Pirtle* v. *Brown* (118 F. (2d) 218); *Camacho* v. *Rogers* (199 F. Supp. 155).

The power of the State to establish the qualifications for voting in both Federal and State elections includes the power to prescribe nondiscriminatory literacy tests as prerequisites to the right to register and vote—*Lassiter* v. *Northampton County Board of Elections* (360 U.S. 45, 3 L. Ed. (2d) 1072); *Guinn* v. *United States* (238 U.S. 347, 59 L. Ed. 1340); *Williams* v. *Mississippi* (170 U.S. 225, 42 L. 7d. 1012); *Trudeau* v. *Barnes* (65 F. (2d) 563). Such tests may restrict the required literacy to proficiency in the English language and exclude literacy in any other language, such as Spanish—*Camacho* v. *Rogers* (199 F. Supp. 155).

Section 1 of S. 2750 asserts that Congress has the power to enact a bill under section 4 of article I and under some indefinite and undefined power it possesses over elections to fill Federal offices. These assertions are totally without foundation. Section 4 of article I provides, as following:

> The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The meaning of section 4 of article I is obvious. The power vested in Con-

gress is to alter the regulations prescribed by the legislatures of the States, or to make new ones, as to the times, places, and manner of holding the elections. Those which relate to the times and places will seldom require any affirmative action beyond their designation. And regulations as to the manner of holding them cannot extend beyond the designation of the mode in which the will of the voters shall be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States—*Ex parte Clarke* (100 U.S. 339, 25 L. Ed. 715); *Ex parte Siebold* (100 U.S. 371, 25 L. Ed. 717); *Ex parte Yarbrough* (110 U.S. 651, 28 L. Ed. 274); *State* v. *Adams* (22 Stew. (Ala.) 231); *People* v. *English* (139 Ill. 622, 29 N.E. 678, 15 LRA 131); *Taft* v. *Adams* (69 Mass. (3 Gray) 126); *People* v. *Guden* (75 N.Y.S. 347); *Livesley* v. *Litchfield* (47 Ore. 248, 86 P. 142, 114 Am. St. Rep. 920).

The notion that Congress has some indefinite and undefined power over elections to fill Federal offices is without support either in reason or authority. The only source of its power over congressional elections as such is section 4 of article I—*Newberry* v. *United States* (256 U.S. 232, 65 L. Ed. 919).

The constitutional power of the States to establish literacy tests and other qualifications for voting in both Federal and State elections is subject to three limitations and three limitations only. These are as follows:

First. They must not violate the due process clause or the equal protection of the laws clause of the 14th amendment.

Second. They must not violate the 15th amendment which forbids any State to deny or abridge the right of a qualified citizen to vote on account of race or color.

Third. They must not violate the 19th amendment which forbids a State to deny or abridge the right of any qualified citizen to vote on account of sex.

There is no reasonable basis whatever for any contention that any of the existing State literacy tests violate the 14th amendment. Such tests do not deprive any citizen of due process of law because they bear a rational relationship to the purpose of the States to insure an independent and intelligent exercise of the right of suffrage—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, L. Ed. (2d) 1072); *Stone* v. *Smith* (159 Mass. 414, 34 N.E. 521). Moreover, they do not deny to anyone the equal protection of the laws because they apply alike to all persons regardless of race or sex—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, 3 L. Ed. (2d) 1072).

The 15th and 19th amendments granted no new voting rights except that of not being discriminated against on the ground of race, or color, or sex—*Lassiter* v. *Northampton County Election Board* (360 U.S. 45, 3 L. Ed. (2d) 1072); *Guinn* v. *United States* (238 U.S. 347, 59 L. Ed. 1340); *Pope* v. *Williams* (193 U.S. 621, 48 L. Ed. 817); *James* v. *Bowman* (190 U.S. 127, 47 L. Ed. 979); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588); *United States* v. *Reese* (92 U.S. 214, 23 L. Ed. 563).

As has already been pointed out, the only operative part of S. 2750, that is, section 2, does not attempt to protect any qualified voter against discrimination in voting in Federal elections on the basis of race or color. On the contrary, it is concerned with the protection of persons who have completed the sixth grade and who are threatened with a denial of their right to vote on account of their performance in an examination for literacy or otherwise.

Consequently, S. 2750 constitutes an attempt on the part of Congress to legislate in respect to literacy tests—a power denied to the Congress by the Constitution.

The 14th and 15th amendments are designed to prohibit the States from doing the things which they forbid. Section 5 of the 14th amendment and section 2 of the 15th amendment do not empower Congress to legislate generally in respect to these things. They merely empower the Congress to adopt legislation appropriate to enforce the specified prohibitions against State action.

This being true, there are two very obvious limitations upon the power of Congress to legislate for the enforcement of the 14th and 15th amendments. The first is that such legislation must be addressed solely to State action; and the second is that such legislation must be confined to dealing with the prohibitions imposed by the amendments upon such State action—*Karem* v. *United States* (121 F. 250).

S. 2750 does not constitute appropriate legislation to enforce either the 14th or 15th amendments for two reasons, and in consequence is null and void. These reasons are as follows:

First. S. 2750 is not limited to take effect only in case a State violates the prohibitions of the 14th or 15th amendments. On the contrary, it applies immediately upon its enactment to each of the 50 States, no matter how well it may have performed its duty under the amendments. As the Supreme Court of the United States declared in the civil rights cases:

> Until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity (*Civil Rights Cases*, 109 U.S. 3, 27 L. Ed. 835; *United States* v. *Harris*, 106 U.S. 629, 27 L. Ed. 290).

Second. S. 2750 constitutes an attempt by the Congress to supersede State legislatures and legislate affirmatively upon a subject, that is, qualifications for voting, which lies within the domain of State legislation—*Ex parte Rahrer* (140 U.S. 545, 35 L. Ed. 572); *Civil Rights* cases (109 U.S. 3, 27 L. Ed. 835); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588).

Moreover, S. 2750 exceeds the jurisdiction of Congress to enact appropriate legislation under the 15th amendment and is null and void because its provisions do not deal with discriminations in voting on account of race or color—*Pope* v. *Williams* (193 U.S. 621, 48 L. Ed. 817); *James* v. *Bowman* (190 U.S. 127, 47 L. Ed. 979); *United States* v. *Cruikshank* (92 U.S. 542, 23 L. Ed. 588); *United States* v. *Reese* (92 U.S. 215, 23 L. Ed. 563); *Karem* v. *United States* (121 F. 250).

On the contrary, it deals exclusively with literacy and understanding tests, which fall within the domain of State legislation—*Camacho* v. *Rogers* (199 F. Supp. 155).

VI

The Constitution is the precious birthright of all Americans. It was written and ratified by the Founding Fathers in the hope that it would put the fundamentals of the Government they desired to establish beyond the control of impatient public officials, temporary majorities, and the varying moods of public opinion.

The greatest of the Founding Fathers was George Washington, who presided over the Convention which framed the Constitution. In his Farewell Address to the American people, he gave us advice which must be heeded by those in positions of authority if the Constitution is to be preserved for the benefit of all Americans of all generations and all races. This is what he said:

> If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. * * * But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

S. 2750 represents an attempt to have Congress usurp and exercise in part by simple legislative fiat the constitutional powers of the States to prescribe the qualifications of those who are to vote for presidential and vice presidential electors, Senators and Representatives in Congress.

This constitutional power has resided in the States since the birth of the Republic. If any public officials think that such power should be transferred either in whole or in part from the States to the Congress, they ought to seek such transfer in a forthright way by an amendment to the Constitution. They ought not to undertake to declare by a simple act of Congress that the enlightened patriots who framed and ratified our Constitution did not mean what they said in simple words.

When men succumb to the temptation to do evil, they always lay to their souls the flattering unction that the evil they do will result in good. It is thus with the advocates of S. 2750.

They assert that they are simply attempting to secure to qualified voters their right to vote. It is bad indeed for

the country for any qualified voters to be denied the right of suffrage. But there is one thing which would be worse for the country, and that would be for the Senators to manifest by their support of S. 2750 that reverence for constitutional government in America has died in their hearts.

This is not the first assault upon the constitutional provisions which confer upon States the power to prescribe the qualifications for voters. About 100 years ago, Thaddeus Stevens and other impatient men seeking political ends induced the Congress to pass the Reconstruction Acts whereby Congress imposed military rule upon the Southern States and robbed them of their constitutional powers to prescribe the qualifications for voting. At that time, the Democratic Party witnessed its grandest hour, because it stood up for constitutional government. At its national convention held in New York in July 1868, the Democratic Party made this ringing declaration upon the precise issue which now confronts the Senate:

And we do declare and resolve, That ever since the people of the United States threw off all subjection to the British Crown, the privilege and trust of suffrage have belonged to the several States, and have been granted, regulated, and controlled exclusively by the political power of each State respectively, and that any attempt by Congress, on any pretext whatever, to deprive any State of this right, or interfere with its exercise, is a flagrant usurpation of power, which can find no warrant in the Constitution; and if sanctioned by the people will subvert our form of government, and can only end in a single centralized and consolidated government, in which the separate existence of the States will be entirely absorbed, and an unqualified despotism be established in place of a Federal union of coequal States; and that we regard the reconstruction acts so-called, of Congress, as such an usurpation, and unconstitutional, revolutionary, and void.

One of the greatest men who ever occupied the White House was Abraham Lincoln, the first Republican President. On one occasion when Lincoln was urged to take action not sanctioned by the Constitution, he declared:

As President, I have no eyes but constitutional eyes.

Mr. President, in closing, I call upon the Democratic Members of the Senate to emulate the example set by our party in its grandest hour and manifest their devotion to constitutional government. I call upon the Republican Members of the Senate to follow Abraham Lincoln's example and view the pending proposal with "constitutional eyes."

If Senators on both sides of the aisle will do these things, America's constitutional birthright will not be sold for a mess of political pottage.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPOSITION OF FORFEITURES FOR CERTAIN VIOLATIONS OF RULES OF FEDERAL COMMUNICATIONS COMMISSION

During the delivery of Mr. ERVIN'S speech,

Mr. PASTORE. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. Mr. President, I yield to the Senator from Rhode Island with the understanding that I do not thereby lose the floor, and that my act in so doing will not result in my remarks on this day being counted as two speeches on the question before the Senate.

Mr. PASTORE. And with the further proviso that the remarks of the Senator from Rhode Island will appear at the conclusion of the very eloquent remarks of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1668.

The PRESIDING OFFICER (Mr. JORDAN in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 1668) to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields which was to strike out all after the enacting clause and insert:

That title V of the Communications Act of 1934 is amended by adding at the end thereof a new section as follows:

"FORFEITURE IN CASES OF VIOLATIONS OF CERTAIN RULES AND REGULATIONS

"SEC. 510. (a) Where any radio station other than licensed radio stations in the broadcast service or stations governed by the provisions of parts II and III of title III and section 507 of this Act—

"(1) is operated by any person not holding a valid radio operator license or permit of the class prescribed in the rules and regulations of the Commission for the operation of such station;

"(2) fails to identify itself at the times and in the manner prescribed in the rules and regulations of the Commission;

"(3) transmits any false call contrary to regulations of the Commission;

"(4) is operated on a frequency not authorized by the Commission for use by such station;

"(5) transmits unauthorized communications on any frequency designated as a distress or calling frequency in the rules and regulations of the Commission;

"(6) interferes with any distress call or distress communication contrary to the regulations of the Commission;

"(7) fails to attenuate spurious emissions to the extent required by the rules and regulations of the Commission;

"(8) is operated with power in excess of that authorized by the Commission;

"(9) renders a communication service not authorized by the Commission for the particular station;

"(10) is operated with a type of emission not authorized by the Commission;

"(11) is operated with transmitting equipment other than that authorized by the Commission; or

"(12) fails to respond to official communications from the Commission;

the licensee of the station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. In the case of a violation of clause (2), (3), (5), or (6) of this subsection, the person operating such station shall, in addition to any other penalty prescribed by law, forfeit to the United States a sum not to exceed $100. The violation of the provisions of each numbered clause of this subsection shall constitute a separate offense: *Provided*, That $100 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for the violation of the provisions of any one of the numbered clauses of this subsection, irrespective of the number of violations thereof, occurring within ninety days prior to the date the notice of apparent liability is issued or sent as provided in subsection (c) of this section: *And provided further*, That $500 shall be the maximum amount of forfeiture liability for which the licensee or person operating such station shall be liable under this section for all violations of the provisions of this section, irrespective of the total number thereof, occurring within ninety days prior to the date such notice of apparent liability is issued or sent as provided in subsection (c) of this section.

"(b) The forfeiture liability provided for in this section shall attach only for a willful or repeated violation of the provisions of this section by any licensee or person operating a station.

"(c) No forfeiture liability under this section shall attach after the lapse of ninety days from the date of the violation unless within such time a written notice of apparent liability, setting forth the facts which indicate apparent liability, shall have been issued by the Commission and received by such person, or the Commission has sent him such notice by registered mail or by certified mail at his last known address. The person so notified of apparent liability shall have the opportunity to show cause in writing why he should not be held liable and, upon his request, he shall be afforded an opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence."

SEC. 2. Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)) is amended by striking out "sections 503(b) and 507" and inserting in lieu thereof "section 503(b), section 507, and section 510".

SEC. 3. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

Mr. PASTORE. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. PASTORE. Mr. President, this is a perfecting amendment which was instituted by the House on the recommendation of the Federal Communications Commission. It is acceptable to the members of our committee, and I hope it will be acceptable to the Members of the Senate.

HARLAN CLEVELAND DESCRIBES "VIEW FROM THE DIPLOMATIC TIGHTROPE"

Mr. PROXMIRE. Mr. President, the Assistant Secretary of State for International Organization Affairs, Mr. Harlan Cleveland, recently spoke to the American Society for Public Administration on the subject "View From the Diplomatic Tightrope." In this remarkable speech, several of the toughest, most

persistent problems in the area of diplomatic practice are given a thoughtful once-over-lightly. Mr. Cleveland describes the difficulties inherent in keeping our foreign policy in step with the stunningly rapid pace of progress in science, knowledge, and technology.

In Mr. Cleveland's words, it is a problem of coping with "the obsolescence of old ideas which once were good," but which, because of the changes wrought by nuclear weapons, the worldwide wave of rising expectations in nations called underdeveloped, the shifting focus of the Soviet threat—and the resultant changes in peace-keeping techniques—are no longer sufficient.

This poses an enormous challenge to all of us. Believing that Mr. Cleveland's remarks merit a wide audience, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

VIEW FROM THE DIPLOMATIC TIGHTROPE

(Statement by the Honorable Harlan Cleveland, Assistant Secretary of State for International Organization Affairs, before the American Society for Public Administration, Saturday, April 14, 1962, Detroit, Mich.)

I

Some time ago, you will recall, the great Wallendas had an accident on their high wire. Two of the younger members of the troupe plummeted from their pyramid and were killed; a third is still in the hospital. The oldest of the Wallendas, 60-year-old Herman, who still does handstands on the high wire, was asked whether they weren't afraid up there.

"Certainly we're afraid," he said. "If you do not feel afraid, either you're a fool or you haven't got enough experience. You don't want anyone up there who is not afraid; he endangers everybody. You have to realize there is danger in front of you and danger behind you. Don't get careless; don't get too tense. You can't go too far in either direction."

I doubt if in his busy and productive life as a circus entertainer, Herman Wallenda has ever given much attention to that other circus called international relations. But his words, born of wisdom and experience in his business, fit the business of diplomacy as well. * * *

"Don't get careless; don't get too tense." I cannot think of a better text for some words about our national will and purpose—and about its executive instrument, the Department of State.

The Department, as we smugly call it, maintains active diplomatic relations with 101 sovereign nations. Some are rich and some poor; some are experienced and some are new boys in the hard school of political responsibility; some are stable, some are volatile, and some are both in turn. But every one is a special case. This means dealing with a hundred separate political regimes, each with its own policies, ideas, plans, hopes, ambitions, and prejudices—and each with its own political leadership more or less responsible to its own domestic constituency.

We cannot assume that other countries only have foreign policies, that only we can afford to have domestic politics. International diplomacy is mostly the resultant of the domestic politics of our 100 neighbors—as well as our own.

Of course, on many matters—indeed, on an increasing proportion of all our foreign affairs, we deal not with nations but with groups of nations—14 NATO allies, 7 partners in SEATO and 4 in CENTO, 10 other independent American Republics, 2 partners in ANZUS, and 103 neighbors on the East River in New York.

Altogether, we pay regular membership dues to 51 of these international clubs. We invest in six international banks and funds. We make voluntary contributions to 24 special programs, to feed refugees, eradicate disease, promote research, and finance development. And we participate in more than 400 major intergovernmental conferences this year. Some of these conferences are pretty complicated—the most recent tariff-cutting meeting under the General Agreement on Tariffs and Trade lasted for a year and a half and involved 25 of the 40 member countries working on literally thousands of commodities. In the General Assembly of the United Nations, 104 countries dealt with about 100 agenda items in the 16th General Assembly. Those of you who are good at arithmetic will already have figured out that this means more than 10,000 national decisions had to be taken in the world community on how to vote, on issues ranging from the representation of Red China to the future of Ruanda-Urundi to the voting of a $200 million issue of U.N. bonds.

Standing in the center ring of this international circus, we never have the luxury of playing to a single audience. Everything we do is watched with care and apprehension by our own publics, by our differing allies, by the several varieties of neutrals, and by the Communist states as well. Merely to name the audiences is to suggest the difficulty of satisfying all of them at once. It is, in fact, impossible. I know of no foreign policy problems worth discussing on which any given position will not be offensive to some significant group at home or abroad.

To formulate the national will, in these circumstances, is to seize the multiple horns of many dilemmas. Our culture teaches us that there are two sides to every question; we learn this in college debating, in court proceedings, in two-party elections, and in TV westerns, even of the adult variety. We also learn about two-sidedness from columnists who, analyzing the complexities of foreign policy, manage to simplify it all for us by finding two clearly etched points of view inside the Federal establishment, and then simplify it further by identifying the heroes and villains, the good guys and the bad guys.

The real world is not like that at all. I am not aware of any real problem now under consideration in the Department of State which has only two sides. Five or six sides might be typical and in United Nations affairs, I can point to problems that have 17 sides, or 35 sides or even 104.

Whenever an important decision is made on a serious issue in world affairs, a good case can be made for any of several alternative policies or actions. If the choice among them is a relatively rational one, in which reasoned analysis can provide the answer that really is best, the matter is disposed of at the third level of our bureaucracy or below—and the chances are you will never hear of it. But any problems that reach the level of the Secretary of State involve a nip-and-tuck choice, on which reasonable men can—and frequently do—have very different views. And if a decision has to be taken to the President, the issue is likely to be so finely balanced that political instinct—a sense of direction combined with a kind of feel for the total environment—often becomes the decisive weight in the scales.

This sense of direction cannot be discovered merely by listening to what statesmen say their purposes are. In fact, I am not even going to take up your time today trying to define the purposes of our foreign policy. I'm going to refrain from doing this, not because it's too hard but because it's too easy.

They add up to a many-sided effort, under the canopy of nuclear deterrence, to make the non-Communist world hum with the cheerful and contagious sounds of success, and thereby help to subvert the Communist world by demonstrating that free choice works better, and feels better, than coercion.

See? All in one sentence. Let's rise above principle to the rarer, more exhilarating atmosphere of practice.

II

To illustrate what I mean, I have selected for brief exposure five issues that are on the front burner in the Department today. They are reasonably typical of the business of making and conducting foreign policy. They help show that the garden variety issue in world affairs comes not with two sides but with several or many; that the answers to interesting problems are always complex; that whatever we do, someone will be mad—but someone else will be glad. They suggest that foreign policy is no business for the man with the easy answer; that as in space travel, the shortest distance to the goal is far from a straight line; that horseback opinion is more than likely to be wrong; and that hipshooting is almost sure to be either dangerous or silly, or even both.

Above all, they show that old doctrines wear out, old techniques become obsolete, and old policies, like old soldiers, really do fade away.

The longer I work at the business of diplomacy, the more I am impressed by the rapid obsolescence of even the most successful policies. On practically every important question we try to handle in the State Department, there is a race between the development of the objective world around us, and the development of doctrine with which to analyze and deal with that world.

Perhaps it is obvious that in a rapidly moving world—a world in which (as one philosopher has suggested) we cannot be sure where we are going but we know we are going there fast. It stands to reason that doctrines would have to change as rapidly as the world itself is changing. What does not stand to reason is that the human mind, which is so incomparably complex and rapid a computer, has not usually kept our policies up to date with the pace of events in the real world outside the mind. Or maybe it is not the capacity of our minds to think, but rather a congenital reluctance to use our minds to think ahead.

Whatever the cause, we can see evidence of this lag in every corner of foreign policy. We see it in the contrast between our enthusiasm for John Glenn's pioneering flight, and the sluggishness of our thinking on the kinds of international institutions we should be building to use this new technology for peaceful purposes. We see it in the trouble we have—and the trouble the Russians have—in facing up to the proliferation of nuclear weapons. We see it in the fateful moves toward Atlantic partnership; in our still primitive attempts to unravel the mysteries of nation-building in the world's less-developing areas; in efforts to improve the peacekeeping machinery of the world community; and in the search for new doctrine to deal with the hard-core remnants of colonialism, now that the independence movement has almost run its course.

III

Consider, as one example of our built-in policy lag, the question of nuclear weapons technology. Fifteen years ago we had a world monopoly, and a strong sense of the implications of the atomic age. We offered to transfer this monopoly and its implications to the United Nations but were prevented from doing so because the Soviets were determined to develop their own capacity. This they did, sooner than most people expected. Our minds and efforts were then focussed on the competitive development of

nuclear weapons, on the big-power nuclear arms race forced upon us. This attitude was not altered when the British and then the French joined the nuclear club, because these developments fitted the context of East-West confrontation—and the doctrine of mutual deterrence.

Now we face a quite different situation. Several other nations now have the scientific capacity to acquire a nuclear weapons capability. There is not much time to prevent this from happening. The problem, of course, is complex. There are French, German, Chinese, and other special angles, all coming together in what is known as the United Nations angle. But what is new is that rather suddenly the nuclear powers and the smaller powers share a common interest in arresting the spread of nuclear weapons. Yet it is not happening.

Our task is to find an approach based not on competitive development by the major powers and the envious efforts of other powers to develop some nuclear capability of their own, but on common interest in limiting and then dismantling the nuclear arsenals that already exist. The dilemma, once again, is that scientific invention and technological innovation have outrun our capacity to invent the institutions to keep this most dangerous technology under control.

Consider, next, the dilemma of next steps toward Atlantic partnership. The problem here has been created largely by the success of our own past policies. The Marshall plan has not only triggered the physical recovery of Europe from the damage of history's worst war, it set in motion a chain of events and innovations which, under European initiative, has produced a sensational economic renaissance and a trend toward political unification which is one of the most stirring events of our epoch. The six nations of Western Europe are rapidly creating a single market as dynamic and potentially as prosperous as our own. If all goes well Britain will soon join the Common Market, further adding to the size, weight, and influence of a great new community far stronger than the Soviet Union and potentially in the same league with the United States.

Our problem with all this is that our trade legislation is obsolete for the purpose of dealing with the European Common Market. We simply have never had to negotiate on equal terms before, and the doctrinal inheritance from Cordell Hull gives us inadequate leverage for the purpose.

This does not pose a difficult dilemma in theory. It does, however, confront us with the choice of equipping ourselves to enter a great new Atlantic partnership with enormous economic and political opportunities—or of suffering disadvantages brought on by the success of our own efforts in the years behind us. If we move forward—as surely we will—some of our industries which have shown signs of middle-aged complacency will have to sit up and take notice; and a few will find it useful to make more radical adjustments. But a law which served us well for three decades—and the bargaining techniques which went with it—are plainly out of date in the 1960's.

IV

I mentioned the mysteries of nation building by which I mean, of course, our efforts to help the emerging nations modernize their economic and social systems. At best we know precious little about the complex equations in the processes of economic and social growth. We do know it requires, among other things, massive imports of capital, technology, and professional skills. We also know that in many cases it will require reform of land tenure systems, tax laws, and corrupt practices baked hard in the cake of custom. We also know that it requires the rapid growth of new institutions of almost every kind—public and private.

But these things can no longer be done in an atmosphere of tutelage—the pride of new nationalisms will not stand for the old patronizing ways, even if their purpose is to speed the achievement of nationhood. And from our side, we uphold energetically the doctrine of noninterference in the internal affairs of other states. Yet how can we account responsibly for the use of public funds if we do not exercise reasonable control over their use inside other countries? What, for example, does the Alliance for Progress mean if it doesn't mean financing rapid social reform?

How do we reconcile their acute sensitivity about foreign influence plus our own doctrine of noninterference, with the fact that our aid programs make us deeply influential in internal development of societies? How do we assist in building institutions inside other countries—a network of rural health clinics, an agricultural extension service, a secondary school system, a radio and TV network, a modern army—without tripping and falling across that heavily minded political and ethical boundary called the doctrine of noninterference?

We have somehow been doing this, by trial and error, for close to two decades. It says something about our intellectual lag that we have handled the dilemma of noninterference mostly by avoiding it, by resolutely not thinking about it. But I wonder if the time has not come when we have to think up some new doctrine that fits the reality of our interdependent world, the reality of deep mutual involvement of national governments in each country's internal development.

My own hunch is that we will find this new doctrine in the creative use of international organizations, as is already happening on a very large scale. We will increasingly find, I think, that through the U.N. and through regional organizations, some of the most sensitive relationships in the world, like training for public administration, or advising on national budgets, or reorganizing police forces—can be effectively drained of their political content, stripped of any implication that the technical assistance people are intervening, by operating in the name of the world community. There is already a big laboratory test now in process, as thousands of technicians operate in a hundred countries, representing a dozen different agencies of the U.N. family.

V

In some cases the problem of policy adjustment is not related to the obsolescence of old ideas which once were good, but rather to the growing realization that some old ideas never were designed for the real world. Such, for example, is the case of the peacekeeping machinery of the United Nations.

You will recall that the original idea, in 1945 when the U.N. Charter was signed, was that the United Nations should have a standing force provided by the great powers to deal with breaches or threatened breaches of the peace. But we have found from experience that each crisis requiring peacekeeping forces arises in a different form and therefore requires a different kind of force.

In actual experience, the United Nations has engaged in eight peacekeeping operations—in Indonesia, Greece, Palestine, Kashmir, Korea, the Middle East, Lebanon, and the Congo. Each time the mission was different. Each time the number and type and training and nationality of the forces was somewhat different—and the supply and logistical problems were different, too.

In most cases the standing force envisaged by the framers of the charter would have been the wrong kind of force to deal with the actual situations the U.N. has had to tackle.

The political composition would have been wrong, or the mix of weapons system would have been inappropriate. One lesson is clear, from the scattered experience to date: we cannot run the risk of throwing together scratch teams with no training at a moment's notice. Emergency forces which are, as the President described them in his U.N. speech, "hastily assembled, uncertainly supplied, and inadequately financed." Entirely new ideas of identifying, training, commanding, transporting, and supplying special units for special jobs will have to be worked out against future emergencies.

VI

Let's take a final example of the need for new concepts: the fascinating puzzle created by the demise of colonialism. Most of our present doctrine is based on experience connected with the rapid dismantling of the old European trading empires. The doctrine is self-determination, leading to independence—a concept recorded deep in the history of freedom, impressed on the world by Woodrow Wilson in our own time, and reflected in the extraordinary fact that more than 900 million people have achieved their independence from colonial rule in the forties and fifties, or will surely achieve it in the early 1960's. This concept is still valid today, but its application must be tempered with judicious examination of the conditions which exist in each dependent area.

The United Nations has recommended self-determination for all, in resolutions with which we have associated ourselves. That recommendation can be carried out, sooner or later, in the big African colonies. But that still leaves some 50-odd enclaves and islands scattered around the world. Even by the wildest stretch of a sentimental imagination, most of them do not have the potential of becoming sovereign and independent nations. Many of them are small, and some are tiny—one of the four remaining U.N. trust territories has only 3,000 inhabitants. How much real estate does it take to make a nation? How many persons add up to a people?

The peoples of the 50 islands and enclaves should not be deprived of the benefits of economic development. They should not be deprived of the rights and obligations of self-government, nor the opportunity for free association with the modern world. The world community must find ways—new ways if necessary—by which the peoples of such territories can be associated in freedom with the modern world.

The need for new doctrine on this subject is urgent, not only for the rational development of the remaining bits and pieces of the colonial system, but also for the rational development of the United Nations. The charter principle of the sovereign equality of member states means that each country gets one vote, regardless of population, size, power, or willingness to contribute to U.N. activities. That full vote in the General Assembly has become the badge of nationhood, the mark of prestige, the membership card in the world community for more than half a hundred nations since the U.N. was founded. They are no more likely to give it up than they are likely to return to colonial status.

But the proliferation of sovereignties does raise two serious questions for those who are interested in building the United Nations as an executive organization for peace, in addition to a safety valve for international tension. One question is this: Are we coming to the limit of the number of national sovereignties that are reasonable for the size of the world we live in?

The second question is closely related to the first. With some further increase in U.N. membership in prospect, can the U.N. devise ways of so organizing itself that basic policy decisions continue, as they still do today, to give a special weight to the judgment of those members that carry the major politi-

cal, economic, and military burdens in the world outside the General Assembly chamber?

Well, that's quite a line-up of intellectual lags—the spread of nuclear weaponry, Atlantic partnership, nation-building, peacekeeping, and the wriggling remnants of colonialism. And I have hardly mentioned the Congo, or the implications (for us as well as for the Communists) of the rift between Moscow and Peking; or the dozen cases where we are deeply involved in what the Secretary of State calls other people's disputes (Kashmir, West New Guinea, and the recent unpleasantness on the shores of the Sea of Galilee); or the delicate and dangerous confrontations of power in Korea, Laos, Vietnam, and Berlin. And if they were here, each of my colleagues in the State Department would complain that I have left out several of the missing pieces of doctrine that have kept them working nights, Saturdays, and Sundays in recent months, building foreign policy by accretion in 1,600 outgoing cables a day.

It's quite a record for a race we called civilized.

VII

An anthropologist announced some time ago that he had discovered the missing link between the anthropoid ape and civilized man. The missing link, he said, is us.

We, the missing link, live at a very specialized moment in mankind's long ascent toward civilized behavior. The moment is unprecedented and unrecoverable. History holds its breath while we decide how to act in the presence of three familiar facts, facts no less fateful because they are familiar:

First, our brains now contain the technical genius to meet before long all the basic physical wants of mankind—in this country and Europe in our lifetime, and in the rest of the world in the lifetime of our children. Without a single new scientific discovery or insight, we know how to limit most of the hunger and disease which have been man's chief preoccupation through the millennium of unremembered time. And so now, or in just a few years' time, the problem is not whether we can produce enough progress for everybody, but what kind of progress we want to produce. It is a much more difficult question, but it will be much more fun to work on.

Second, our brains have recently developed the intellectual equipment and social skills necessary to organize people on a scale large enough and complex enough to put our full technical know-how to work in solving the "whether" and choosing the "what."

Then, at this moment of historic opportunity, a God with a taste for irony has placed in our hands the power to end it all.

Individual men and women have always had the option to decide whether to live or die. But only in our generation have men and women acquired the priceless and frightening power to make this choice for whole societies. The cosmic choices and chances which the social fallout of science makes available to us were just never available before.

We have been prepared for these choices and chances by an uncounted infinity of mutations, by half a million years—or maybe much more—of human evolution, by only a few millenia of recorded history, by a brief but brilliant development of systematic thought—through Chinese human relations, Greek logic, Indian philosophy, Jewish and Christian ethics, Western science, and the rest.

From all of this rich teaching, we know that the choices which face us are ours—yours and mine, as individuals—that there is no shelter from the social fallout of science, that we cannot duck the questions it raises, nor turn them away, nor refer them to higher authority—nor dare we leave them unanswered.

In this unique moment of history, not unduly distracted by the crossfire from left and right, the Government of the United States is in a mood to make history, not just to watch it go by. Those of us who are in the act can take no special credit for this circumstance: it is the mandatory spirit of a great power in a dangerous world. Because we have the capability to act, we cannot merely hope for peaceful change, but must actively promote it—at home in each country, and abroad among the nations.

So if you ask us whether we're afraid, as we do our headstands on the State Department high wire from day to day, the answer is "certainly." Our motto, like Herman Wallenda's, is "don't get careless; don't get too tense. You can't go too far in either direction."

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. FULBRIGHT. Mr. President, before I commence my remarks, I wish to pay tribute to the very learned and in every respect excellent discussion of this subject yesterday by the distinguished junior Senator from Georgia [Mr. TALMADGE] and also today by the distinguished senior Senator from North Carolina [Mr. ERVIN]. I feel that they have presented the case extremely well. They have reviewed from all aspects the constitutional history of the section involved and the laws pertaining to the question. I pay high tribute to the excellence of their discussion of the issue now before the Senate.

Mr. President, the Senate is now engaged in the second round of the perennial effort to embarrass the South and to garner local votes. The Senate has already wasted many days, this session, debating a measure to amend our Constitution for the 24th time in the history of the Republic, all to achieve an objective which is of no practical consequence in connection with the success or the failure of our form of government. As I stated during the course of the debate on the poll tax measure, it is impossible for me to conceive how elimination of the poll tax in five States can improve the quality of our electorate or can contribute to the betterment of our political life.

I cannot speak as an authority on voting laws or practices in all Southern States, but I do know that our situation in Arkansas does not furnish any justification for passage of this drastic unconstitutional proposal. The people of Arkansas cherish their right to vote, and do not condone or approve any attempts to infringe on this right, regardless of race, creed, or color. This right is well protected in our State's constitution and statutes. The constitution of Arkansas specifically states in article III, section 2:

> No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage.

The "Declaration of Rights," article II of our constitution, guarantees that no person shall "ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition."

The statutes of Arkansas contain ample provisions for the enforcement of these constitutional provisions. I shall not take up the time of the Senate by discussing all of the Arkansas statutes bearing on protection of the right to vote; but, as an example, I may point to title 3, section 1506, which makes it a felony, punishable by a maximum of 5 years in prison, for an election officer to intimidate or prevent a qualified elector from voting.

Arkansas does not impose a literacy test. As a matter of fact, one of our State statutes provides for imposition of a fine of up to $100 for attempting to deceive an illiterate voter in the marking of his ballot. I mention these constitutional and statutory provisions to indicate to the proponents of this proposal that they are going rather far afield if they expected to use Arkansas as a case to justify their attempted invasion of the right, left to the States, under the Constitution, to establish qualifications for voters.

I think the Arkansas provision in regard to the imposition of a fine if an attempt is made to deceive an illiterate voter is a very significant one. I believe the makers of the Arkansas constitution had in mind that there may well be a difference between illiteracy and intelligence. A person who is illiterate may still have a right to vote, for example, because many illiterates are intelligent—which is an example of the fallacy of the bill and its very ridiculous rule of thumb.

Members of this body who press for the passage of measures such as the one before us place great reliance on reports from the Civil Rights Commission. In my opinion, their confidence is misplaced, and it is not possible to get an unbiased and impartial report from this agency. However, proponents of the pending legislation seem to take at face value anything that comes out of this Commission. I would remind these colleagues that the Commission, according to its own report, has not received a single sworn or unsworn complaint about voting discrimination in my State. In its 1961 annual report, the Commission stated that it had been unable to find any evidence of racially motivated impediments to voting in Arkansas.

Although the findings of the Commission are, because of its character, highly suspect, the fact that it has been unable to find any evidence of voting discrimination in Arkansas should convince the most pronounced skeptic that such discrimination does not exist in my State.

The Senate will, I believe, be interested in some statistics on Negro voting in Arkansas. According to the 1960 census, there were in Arkansas 192,626 nonwhite citizens of voting age. We can, of course, assume that most of these are Negroes. In 1961, 68,970 Negroes paid their poll tax and qualified to vote, according to the records of the State auditor. This represented an increase of nearly 5,000 Negro voters since 1957.

The records are not entirely accurate, since in some counties the poll-tax records do not show the race of the purchaser, and in such cases the auditor estimated the breakdown between white and Negro poll-tax sales which is the only way in which to arrive at such a conclusion.

Of the voters qualified to vote in our primaries this summer, 12 percent are Negroes; 36 percent of the Negroes of voting age in Arkansas, based on 1960 census figures, are qualified to vote this year. Nothing prevented this percentage from being higher, other than the failure to pay the $1 poll tax.

In 19 of Arkansas' 75 counties, more than 20 percent of the qualified voters are Negroes. In six counties they comprise over 30 percent of the total qualified voters. The proponents of this bill can take no satisfaction from the conditions of Negro voting in my State.

As we begin the debate on this measure to establish a uniform test for literacy, I think that it would be well for every Senator to consider carefully his responsibilities as a representative of a State in our Federal system. As a representative of his State, each Senator should be deeply concerned over this further attempt to invade the powers of the States and to obliterate, by statute, a right which clearly is left to the States under the Constitution. The Members of this body should not take the attitude that the Supreme Court will ultimately settle the grave constitutional issue involved, and that this issue is of no concern to Senators in considering the proposal. Every Senator's conscience is a supreme court when it comes to voting on a measure on which there are serious questions of constitutionality. It would be a flagrant violation of the oath which every Senator has taken if he took the attitude that the Supreme Court is the body in our Government which has the sole responsibility to consider and decide constitutional issues. Every official of our Government in the executive, legislative, and judicial branches is charged with the duty to uphold the Constitution. I grant that there is some justification for the argument that the Constitution is what the Supreme Court says it is. That is because of the power of the Supreme Court. Certainly it is not because of the Court's infallibility—at least, in my opinion, its infallibility. But that does not remove the necessity for each Senator to live with his conscience, when faced with a proposal such as this one.

I have been a Member of this body for nearly 18 years; and in practically every one of those years, those of us who represent the Southern States have been placed in the position of defending the rights of every other State. Often we have been successful in preventing the passage of proposed legislation which would have invaded further the rights left by the Founding Fathers to the States. In some cases, such as with the so-called Civil Rights Acts of 1957 and 1960, we have succeeded only in eliminating some of the more obnoxious provisions of the proposals. It would be interesting to know how many hours of debate have been consumed in recent years in debate on legislation aimed at the South. I doubt that I would be far off in guessing that since World War II the Senate has spent about one-tenth of its time on such measures. There is no way to calculate the damage to the national interest arising from neglect of important legislation and the generation of sectional ill feeling caused by these politically motivated attacks on the people of the South.

A great many bills are now on the calendar, awaiting action. Many of them have been there since last year. Every committee has a full calendar of business; and I have no doubt that as this debate proceeds, the work in the committees will eventually come to a standstill. There are a great many important bills which should receive thorough consideration at this session. The delay in the disposition of these bills is not in the public interest; but the proponents of the proposal now urged upon us seem to have little regard for the public interest if it interferes with their plans.

I noticed that we have another Stella School District bill on the calendar. Senators will remember what happened to the predecessor of this bill when it became the vehicle for consideration of the 1960 civil rights bill. It appears that this poor school district will again be the victim of a civil rights diversion.

The proponents of so-called civil rights legislation are not content to abide by the established rules of procedure and the traditions of the Senate when it comes to consideration of their pet proposals. Irregular procedure is the regular order in such cases. Apparently the proponents of this legislation feel that the Senate rules are made to be twisted and distorted in the same manner that they play on the heartstrings of members of minority groups. At this time I remind my colleagues of Jefferson's admonition on the importance of adhering to established rules of procedures. He said:

> Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say it was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power. So far the maxim is certainly true, and is founded in good sense; that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check and which the wantonness of power is but too often apt to suggest to large and successful majorities.
>
> And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

His sound warning about the importance of rules to a minority are well taken, and I urge those promoting the pending proposal to weigh his words carefully.

Perhaps the best solution to the trend toward erosion of the traditions of the Senate would be the adoption of a second set of rules which would be applicable only for consideration of measures designed to curry votes from minority groups.

This would permit retention of orderly procedures for disposal of regular business and would insure the preservation of the traditions which have made the Senate unique among legislative bodies.

The Senate is being asked to pass this measure only 3 months after its introduction, without benefit of a committee report or printed hearings. In my view, 3 months is much too short for careful study of a measure of such a far-reaching and precedent-shattering nature. Extensive hearings have been held on the bill by the subcommittee, and the members of this group have pursued their duties diligently under the chairmanship of the able Senator from North Carolina. It is highly unusual, except when it comes to so-called civil rights legislation, to take away a committee's responsibility for a bill after only 3 months of study. If this can be done for measures of this type, there is no reason why it will not be tried in the future on tax bills or other legislation of real significance.

Usually when a bill of importance is to be brought before the Senate for debate, the committee hearings are made available for study well in advance of the floor discussion. As we could expect, such is not the case here. The printed hearings are not available yet. If committee hearings are to play any part in the Senate's consideration of a measure, they must be available before the floor debate begins. Again, it seems that following the regular order of business is too much to expect of those who are intent on promoting these vote-getting measures directed at the South.

If this measure were really important and time were of the essence in getting it through the Congress, in spite of the fact that it had not been favorably reported by the committee, the established procedure of discharging the committee from its consideration as set forth in rule 26 should have been followed. But, as was true in the case of the anti-poll-tax measure, this procedure was not attempted or mentioned. This is indeed an unusual way for a responsible legislative body to conduct its business. The end result of such violations of established traditions can only lead to making the rules of the Senate a hollow shell—high sounding and orderly looking on paper but meaning nothing in practice.

We are being urged to pass this bill on the grounds that literacy tests have been used to deprive persons from voting on account of their race or color, in violation of their constitutional rights. There is a hollow ring to this argument. We heard it often during the 1957 and 1960 debates, and I suppose that even if this bill passes we will hear it again in a year or so. The truth is that there is no end to the insatiable demands of minority groups who want a special legal status in our society. This is merely another step in the trend toward obliteration of the States' constitutionally sanctioned power to set voting qualifications.

When the Senate debated the Civil Rights Act of 1957, those of us who opposed it contended that existing laws were more than ample for the protection of the constitutional rights of every citizen, regardless of color. There was no doubt in my mind that if the laws then in existence were vigorously enforced by the Attorney General, any problem of discrimination in voting could have been eliminated long ago. It should be remembered also that the individual has some responsibility to look out for the enforcement of his constitutional rights. In a democracy, responsibility is the key to freedom. It would be a sad day for our country if every citizen looked to the Federal Government alone for the complete enforcement of his rights, without assuming any personal responsibility for initiating corrective legal action.

I would like to review briefly for my colleagues the Federal statutes in existence prior to 1957 for the protection of voting rights. Under section 1983 of title 42, any person who is wrongfully denied his constitutional rights, including voting rights, by a person acting under color of State authority may bring suit for damages against the official or bring suit in equity for preventive relief. I quote this provision to refresh the memory of my colleagues:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

The Supreme Court has held in a number of cases that if any qualified person is denied the right to vote by any State election official, he has the right under this statute to sue the election official for damages. An individual who has been wrongfully denied his right to vote because of race or color can, under this statute, also obtain preventive relief in equity. This is a very broad and far-reaching statute which places some responsibility on the individual to take action in order to protect his constitutional rights.

Now let us look at the criminal statutes which were available prior to 1957 for the protection of voting and other constitutional rights. Section 242 of title 18 of the United States Code makes it a crime for any person acting under color of law, which of course includes a State election official, to deprive a citizen of his constitutional rights. This section reads as follows:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

The Supreme Court has held in a number of cases that the right of a qualified person to vote in an election for Senators or Representatives in Congress is a right secured or protected by the Constitution within the meaning of this statute. Any election official who wrongfully deprives a qualified voter, regardless of race or color, of that right is guilty of a crime under this statute.

A companion criminal statute, section 241 of title 18, makes it a crime for two or more persons to conspire to deprive a citizen of his constitutional rights. I quote this section for the information of my colleagues:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—
>
> They shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

If these two criminal statutes were enforced vigorously throughout the United States, there is no reason why any election official who wrongfully deprives a qualified citizen of his right to vote could not be brought to justice.

The Congress went much further than these statutes in the Civil Rights Act of 1957. Senators will recall the extended debate which was held on this proposal. The bill as finally approved authorized the Attorney General to bring suit in the name of the United States on behalf of any person threatened with a denial of his right to vote for Senators or Representatives in Congress in violation of section 2 of article I, or of the 17th amendment, or in violation of the 15th amendment. This provision of the act reads as follows:

> Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

The Attorney General was thus given additional broad and far-reaching power to insure enforcement of every qualified citizen's right to vote. This is not all, however. In 1960 the Congress authorized the use of a system of voting referees as another device to enforce the rights of a qualified citizen to vote. I am unable to understand how there can be any justification for further congressional action in this field. The remedies now available are more than sufficient. The problem is one of enforcement, and no law is effective unless it is enforced. It is strange for the Congress to be asked to pass additional legislation to enforce voting rights when it is obvious that effective use has not been made of the tools available. There is certainly no indication that the failure to enforce the existing laws is due to any sensitivity about the feelings of citizens of the South. I can only assume that the Department of Justice's failure to act is designed to manufacture convincing evidence for the Congress on the need for additional legislation, such as the proposal now before us. This is not the way to make an effective case for congressional action.

Nevertheless, we are faced with this proposal. I would now like to spend some time in discussing it on its merits. But I have been unable to find any, so I will have to confine my comments to its demerits. One-half of the bill consists of proposed findings of fact designed to justify the substantive provisions. It is very strange, to say the least, to create a set of findings out of thin air in order to justify the proposed literacy test. These findings amount to nothing more than legislative self-justification. I suppose the acceptance of these findings might help those who have doubts about the merits of the bill to rationalize their doubts away.

The page and a half of findings add nothing to the substance of the bill. If we accept these findings at face value, then we must admit that Congress has, in effect, become a judicial body which can, by the mere inclusion of high-sounding phrases in a bill, create a set of conditons as a justification for action in any field. This is truly an Alice in Wonderland approach to legislative action. Congress either has or has not the authority to act. Congressional power cannot be created by findings. And merely because the bill says that it is constitutional does not make this a fact. I am convinced that the Congress does not have authority under the Constitution to establish this test for qualifications of voters.

Let us take a look at some of the proposed findings written into this bill. In subsection (c) the draftsman would have the Congress find that literacy tests and other performance tests have been used to effect arbitrary and unreasonable denials of the right to vote. The Supreme Court has never made such a broad finding. In the case of Lassiter against Northampton County Board of Elections, the Supreme Court held that a State literacy test which is applied alike to persons of all races is constitutional, although the Court said that a literacy

test can be administered in an unconstitutional manner. It is not fitting for the Congress to place itself in a judicial role and make a finding which in reality can be determined only through litigation in the Federal courts. In the same section it is propounded as a fact that existing statutes are inadequate to assure all qualified persons the right to vote. This is a statement which is not supported in fact, as can be seen by examination of the existing laws to protect voting rights. I will concede that they are inadequate in practice if they are not enforced, which may be the case, but they are not inadequate in substance.

In the next subsection the Congress is asked to approve a finding that it is unreasonable to deny any person the right to vote as long as he has a sixth-grade education. It is not for the Congress to decide what is or is not an unreasonable qualification for voting as long as the qualification is administered without discrimination. Under the Constitution the States have the right to set any reasonable literacy qualification they choose, as long as the requirement is applied fairly and without discrimination to everyone.

The next finding is rather unusual and I must confess that I cannot understand why a patently discriminatory provision is put in a bill which is supposedly designed to eliminate discrimination. This finding is that Spanish-speaking citizens who are not proficient in English are nevertheless well qualified to vote. There are a great many members of other nationality groups throughout the Nation who may be quite literate in their mother language but are not proficient in English. These groups are not mentioned in this finding, and presumably they were of no concern to the drafters of the bill. Personally, I think that it is a reasonable requirement that a prospective voter be able to read and understand the English language. My point is that it is rank discrimination to fail to recognize that people of Hebrew, Polish, Italian, German, Chinese, or other foreign extraction also have foreign-language newspapers available to them and should be treated in the same manner as citizens of Spanish extraction.

In the last legislative finding, the author of the bill apparently thought that he could prove the constitutionality of the bill by citing the constitutional provisions on which he bases the authority of Congress to act. It is rather strange that the constitutional provisions relied upon should be set forth in the bill. It reminds me somewhat of a little boy who is whistling as he walks through a graveyard on a dark night. The whistling does not keep the spooks away, but it does give him a feeling of security. Here the recital of these constitutional provisions does not give the Congress the power to act, but perhaps it made the draftsman feel a little less intellectually dishonest. In the same section it is also stated that the Congress has a duty to provide against the abuses which presently exist. The Congress provided against any such abuses many years ago and more than amply added to these remedies by passage of the Civil Rights Acts of 1957 and 1960. Rather than agreeing to the proposition that Congress has a duty to take action now, the Congress should say that the Attorney General has the duty to enforce the existing laws and that individual citizens have the duty to themselves and to their fellow citizens to utilize existing remedies to protect their constitutional rights.

If we accept the premise that the Congress can expand its authority at will by writing findings and preambles in bills, there will be no limit to the powers which can be assumed by the Federal Government.

There should be no question about the authority of the States to establish reasonable qualifications for voters. The Congress does not have the authority to establish a test for voting qualifications as is being attempted in the pending measure. The Constitution clearly leaves this field to the States. In article I, section 2, the qualifications prescribed by the States for electors of the most numerous branch of their legislature are adopted by the Constitution as the qualifications required for voting for Members of the House of Representatives. This principle of State authority was reiterated by the Congress when it approved the 17th amendment. The proponents of this bill rely on article I, section 4, as partial authority for the Congress to establish a uniform test for literacy. It is rather farfetched to say that the constitutional grant of authority to Congress to regulate the "times, places and manner of holding elections" authorized the Congress to establish qualifications for voting. In section 2 of the same article, the authority to establish qualifications for voting was specifically left with the States. Certainly the authors of the Constitution did not mean to nullify by section 4 the power spelled out shortly before in section 2. We must accept the plain meaning of the words "manner of holding" and not distort them to mean something they obviously do not.

Only a few weeks ago the Senate by its action in rejecting the effort to abolish the poll tax by statute and approving a proposed constitutional amendment, reaffirmed its belief in and support of the principle of State responsibility for establishment of qualifications for voters. If the Senate approves this proposal it will do violence to the principle which it so recently reaffirmed.

It is also argued that the Congress has the authority to act under the 14th and 15th amendments to the Constitution. Under the terms of the 14th and 15th amendments, the Congress is limited to consideration of legislation designed to prevent or redress State action which is discriminatory in nature. There must be some showing in this situation that literacy tests, per se, are discriminatory because of race or color. This would be completely contrary to a line of Supreme Court decisions dating back to 1898. In the case of Williams against Mississippi in that year, the Supreme Court held that a provision in the Mississippi constitution, making ability to read any section of the constitution, or to understand it when read, a necessary qualification to vote, does not constitute a denial of the equal protection of the law guaranteed under the 14th amendment if the provision does not on its face discriminate between whites and Negroes. The Court said that the constitution of Mississippi and its statutes "do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them."

In the case of Guinn against United States, which was brought under the 15th amendment, the Court in effect said that the States were left with the power to determine the qualifications of their voters and that a State may establish a literacy test as a requirement for voting provided that the test applies alike to all citizens of the State without discrimination as to race, creed, or color. The Court in that case stated:

> Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.
>
> No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted (*Guinn* v. *United States*, 238 U.S. 347, 362, 366).

The most recent case upholding the validity of State literacy tests, Lassiter against Northampton County Board of Elections, merits careful study by the Members of the Senate in connection with their deliberations on this bill. I wish to quote at some length from this decision. Justice Douglas, who spoke for the unanimous Court, said in the course of the opinion:

> We come then to the question whether a State may consistently with the 14th and 17th amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States*, *supra*, at 366, disposed of the question in a few words, "No time need be spent on the question of the validity of the literacy test considered alone since, as we have seen, its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision and, indeed, its validity is admitted."
>
> The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, *Pope* v. *Williams* (193 U.S. 621, 633); *Mason* v. *Missouri* (179 U.S. 328, 335), absent, of course, the discrimination which the Constitution condemns.
>
> Article I, section 2, of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen by the people.
>
> Each provision goes on to state that "the electors in each State shall have the qualifications requisite for electors of the most

numerous branch of the State legislature." So, while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough* (110 U.S. 651, 663–665); *Smith* v. *Allwright* (321 U.S. 649, 661–662)) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. See *United States* v. *Classic* (313 U.S. 299, 315). While section 2 of the 14th amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of "the right to vote," the right protected "refers to the right to vote as established by the laws and constitution of the State", *McPherson* v. *Blacker* (146 U.S. 1, 39).

We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record (*Davis* v. *Beason* (133 U.S. 333, 345–347)) are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show. Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society, where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise (cf. *Franklin* v. *Harper* (205 Ga. 779, 55 S.E. 2d 221, appeal dismissed 339 U.S. 946)). It was said last century in Massachusetts that a literacy test was designed to insure an "independent and intelligent" exercise of the right of suffrage (*Stone* v. *Smith* (159 Mass. 413–414, 34 N.E. 521)). North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards.

Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the 15th amendment was designed to uproot. No such influence is charged here. On the other hand a literacy test may be unconstitutional on its face. In *Davis* v. *Schnell* (81 F. Supp. 872, aff'd 336 U.S. 933), the test was the citizen's ability to "understand and explain" an article of the Federal Constitution. The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy. We cannot make the same inference here. The present requirement, applicable to members of all races, is that the prospective voter "be able to read and write any section of the constitution of North Carolina in the English language." That seems to us to be the one fair way of determining whether a person is literate, not a calculated scheme to lay springes for the citizen. Certainly we cannot condemn it on its face as a device unrelated to the desire of North Carolina to raise the standards for people of all races who cast the ballot.

In recent years we have heard much public lamentation about the terrible effect of literacy tests and how they are used to prevent Negroes from voting. If the situation is as bad as the proponents of so-called civil rights legislation would have us believe, I should think that cases would have been processed or pending in Federal courts throughout the South. Such is not the case. This lack of legal action makes me very suspicious of the many charges which are constantly aired in the northern press about discrimination in voting in some of the Southern States.

The Senate is being urged to accept the thesis that there are no adequate safeguards to prevent discrimination through use of literacy tests. Nothing could be further from the truth. Under the provisions of the 1957 Civil Rights Act, the Attorney General can bring suit to enjoin discriminatory use of a literacy test by State election officials. The individual citizen who feels that he is being discriminated against because of his race can bring suit in his own name to enjoin discriminatory practices by the election officials. If it can be shown that there is a longstanding pattern of discrimination in a certain area, voting referees can be appointed under the 1960 Civil Rights Act. It should be obvious to the disinterested observer that this is a sham battle. A dearth of legal action under existing statutory remedies indicates to me that the allegations about discrimination in voting which we read about and hear about so much in this body and in the northern press cannot be backed up by facts in a court of law.

It is inconceivable to me why the Attorney General in his eagerness to have this proposed legislation passed, has not shown a similar eagerness in applying all of his rights and powers under the 1960 Civil Rights Act; why referees have not been appointed, why many suits have not been brought, if there has been this discrimination. It seems to me that one should always exhaust remedies under existing law before going to a higher body for relief, and that that principle should apply in these cases.

It is not fitting for the Senate to attempt to take over the functions of the courts, even though some of our courts have assumed the role of the legislature on some occasions. That is my opinion. Because they have done so is not excuse for the Senate assuming the judicial role.

The Federal courts throughout the land are open and functioning and this is where disputes involving constitutional rights of our citizens must be litigated, not the U.S. Senate. The legislative branch of the Government has enough to do in maintaining its integrity from encroachments from other branches of the Government without attempting to take over a function which properly belongs in the judicial branch of the Government.

The proposal being urged upon this body, if adopted, would constitute one of the gravest violations of States rights I have witnessed since I have been a Member of the Senate. At a later time I will discuss the effect which passage of this measure would have on the 21 States which require literacy tests. Arkansas is not one of these States. My concern is, however, for all 50 States which would lose if this proposal is enacted. The precedent which would be set would serve to justify further curtailment of the powers left to the States under the Constitution. Next year we may be called upon to pass a bill to establish a uniform residency requirement for voting. Once the door is opened it will be impossible to prevent passage of other measures to homogenize the States.

It is a dangerous thing for the Congress to tamper with a fundamental principle of our system of Government merely to cater to a minority pressure group. We have seen even in the past that these pressure groups are steadily shifting.

Discrimination and bias cannot be legislated away no matter how many bills we pass. Problems in this delicate area of human relationships can be solved only through education and the slow conversion of the human mind and heart. As much as all of us would like to rid the world of sin, corruption, greed, and other vices, we must recognize that there is a limit to what a legislature can, and should, attempt to do. If we could eliminate discrimination through legislation we might as well enact the Golden Rule. Those of us from the South do not profess to have the answers to all of the problems, including discrimination, which exist in New York, Chicago, or Philadelphia; and, by the same token, we do not believe that the Representatives and Senators from these areas have the answers to our problems—certainly not through measures such as that presented to the Senate at this time.

This bill is another example of a long line of punitive measures directed primarily at the people of the Southern States, promoted by those who know or care nothing about finding a workable solution to the peculiar problems which exist in our section.

I urge that the Senate reject this drastic and unconstitutional proposal.

Mr. HUMPHREY. Mr. President, I invite the attention of Senators to an editorial published in this morning's New York Times in support of the literacy test legislation which is now being considered. I believe the editorial puts us back on the track as to the basic issue which the Senate is considering. I hope that the reasonableness and logic of the editorial will encourage Senators who oppose the measure to reconsider their position and to join hands with the majority of the Senate in making it possible to take favorable action upon the literacy test proposal.

Mr. President, I ask unanimous consent that the excellent editorial published in the New York Times today be printed at this point in the RECORD. I believe the editorial states the case of the pending amendment as succinctly and persuasively as any item I have read or any argument I have heard.

Mr. FULBRIGHT. Mr. President, reserving the right to object, does the Senator from Minnesota know that another great newspaper in New York City, a newspaper of a different persuasion, has taken an almost exactly opposite approach to this question? Is that not so?

Mr. HUMPHREY. I understand that that is true.

Mr. FULBRIGHT. So even in New York, the editorial comment is equally divided on the question; by no means is

there unanimity in the metropolitan press of New York City. Is not that correct?

Mr. HUMPHREY. There may be an equal division of opinion in terms of one newspaper versus another newspaper. It is all a question of how one values the editorial content. I can only say to the good Senator from Arkansas that the editorial I read in the New York Times makes so much sense, is so logical, and, as I said, is so persuasive in its substance and content, that I feel it is the sort of material which could shed considerable light upon the measure now before the Senate.

Mr. FULBRIGHT. Is there any reason or evidence whatever to lead one to believe that the writer of the editorial in the New York Times was in any way qualified to pass upon the constitutionality of the measure which is being considered by the Senate? Can the Senator from Minnesota supply us with that information?

Mr. HUMPHREY. One American citizen is probably as well qualified as another——

Mr. FULBRIGHT. He is as well qualified as the editorial writer of the New York Times; with that statement, I agree.

Mr. HUMPHREY. One American citizen is probably as well qualified as another citizen to pass upon what is constitutional, until the question reaches the courts.

Mr. FULBRIGHT. Does the Senator from Minnesota know whether the editorial writer of the New York Times has been subjected to a literacy test? Does the Senator know what the editorial writer's qualifications are?

Mr. HUMPHREY. It is to be presumed that not only would the writer of a New York Times editorial be able to pass a literacy test, but that he would also be the kind of man who would have the respect, esteem and admiration of one of the ablest, most intelligent, and outstanding Members of the U.S. Senate; namely, the distinguished Senator from Arkansas [Mr. FULBRIGHT].

Mr. FULBRIGHT. The Senator from Minnesota is very kind. In view of that statement, I shall not object to his request.

Mr. KEATING. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. KEATING. Reserving the right to object—and I shall not object——

Mr. HUMPHREY. I thank the Senator from New York; I shall reserve a compliment for him.

Mr. KEATING. I have read the editorials which have been referred to. I have sat here today and listened to the repeated references to New York made by the Senator from Arkansas and, earlier, by the Senator from North Carolina [Mr. ERVIN].

I have refrained from replying to those statements, because I am hopeful that it will be possible for the Senate to reach a vote soon on the measure which is before us. Sometimes it is said that one engages in colloquies merely for the purpose of delaying a vote. Therefore, I have not responded. However, I do wish to comment on the two editorials.

I disagree with the editorial published in the New York Herald Tribune. I agree with the editorial published in the New York Times. I stress that both newspapers are great papers and are widley read and respected in New York State and throughout the Nation.

I may say to the distinguished Senator from Arkansas that while these two newspapers may differ on the constitutionality of the measure before the Senate—and I agree with the Senator from Minnesota that this is a question to be determined by the courts—both of those fine newspapers—and, so far as I know, all the other newspapers published in the great city of New York—favor the enactment of legislation to further strengthen the civil rights of all of our citizens.

We are hearing a great furor about a little literacy bill, which is only a tiny step toward insuring full rights for citizens. I do not contend that the opponents of the measure are not acting in good faith; but there may be some feeling that a big, vigorous opposition to this limited and inadequate measure will prevent the enactment of substantial civil rights legislation at this session, including even the literacy test bill, which proposes to take a tiny step, and is good as far as it goes.

However, because the New York Times editorial and the editorial in the New York Herald Tribune have been the subject of previous references, I assure the Senator from Arkansas and all other Senators that I feel certain, as the result of their previous editorial positions, that all of the newspapers of New York are united in their belief that further legislation is needed to protect the civil and human rights of American citizens in consonance with the Constitution of the United States.

Mr. FULBRIGHT. Mr. President, will the Senator from New York yield?

Mr. KEATING. I do not have the floor.

Mr. HUMPHREY. Mr. President, I am happy to yield to the Senator from Arkansas.

Mr. FULBRIGHT. If I recall correctly, the Wall Street Journal, which is a rather well known newspaper, published editorial comment somewhat critical of the procedure being followed in the Senate. There is much doubletalk on this question. As I have said, Arkansas has no literacy test. This measure would not affect my State. What is being trifled with is the Constitution, which very clearly leaves this right to the States. My State would not be affected by the pending measure. So far as I am entitled to speak on the question, my view is that we are trifling with the Constitution.

If I recall correctly, the Wall Street Journal, the New York Herald Tribune, and other newspapers, as well, raise the question of the procedure which is being followed and the rather offhand, casual manner in which the Constitution is being ignored. That is what is involved. It is not that there is objection to letting people vote. I have read the statistics. I believe that in my State, and in most of the other States, with a few local exceptions, there is a free and equal right to vote. There are certain exceptions. As the Senator from New York knows, in certain sections of the great city of New York, there is some difficulty in enforcing the law against robbery, murder, and rape, just as there is in Washington, D.C. Conditions have become so bad in Washington, the Capital City, that there are areas where people dare not walk out at night.

We know there are also areas where there is not proper enforcement of the right to vote. But these are problems for solution by the local authorities, and for the Federal authorities to pursue under existing laws.

What we are saying seems to be misunderstood. We are pointing out that the advocates of this measure are attempting to disregard the Constitution itself—a most serious matter.

Only recently the Senate said it should not trifle with the Constitution in the case of poll taxes, even though only five States were involved. I do not know how the Senator from New York voted on that measure, but at least a majority of the Members of the Senate voted to proceed by way of constitutional amendment, and thereby the Senate followed proper procedure. It was proper procedure, I say, regardless of how I felt about the proposal then before the Senate. I did not approve of the measure which was passed, but at least a proper procedure was followed.

So when the Senator from New York refers to this measure as "a little literacy bill," I point out that the bill is not little at all, for it would rape the Constitution; and that is a most important consideration.

So far as the bill itself is concerned, I am in an excellent position to comment on it, because the bill would not affect my State one iota.

Mr. KEATING. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. BURDICK in the chair). Does the Senator from Minnesota yield to the Senator from New York?

Mr. HUMPHREY. I yield.

Mr. KEATING. The Senator from Arkansas, like other Senators who share his views of the issue before us and who have participated in this debate, talks about the Constitution. But I point out that this group of Senators is talking about the Constitution of 1789, not the Constitution of 1962, of which the 14th and 15th amendments are as important parts as are the original provisions of section 1, article IV. The Senator from Arkansas and the other Senators who share his view have constantly referred to qualifications for voting, and have said that the Constitution provides that the qualifications for voting shall be set by the States. That is true; there is no question about it.

But the Constitution also provides—and this provision has equal force and effect—that no State shall deny the right to vote because of race, color, or previous condition of servitude. This provision has been in the Constitution for 100 years. But the Senator from Arkansas

and other Senators persist in talking about the Constitution as if we were the Founding Fathers living generations ago and as if we were now dealing with the Constitution for the first time. Certainly there is more to the Constitution than that.

Mr. FULBRIGHT. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. FULBRIGHT. The Senator from New York is entirely mistaken. The 17th amendment came much later; and it was only in 1959 that the decision in the Lassiter case—a very recent case—was handed down, thus confirming this whole theory. So I do not think the Senator from New York is at all correct when he says we are talking about the early Constitution. Instead, we are talking about the Constitution of today, as interpreted by the Supreme Court within the last 3 years.

What has happened in connection with the Constitution since the Supreme Court's decision in the Lassiter case? I do not see that there has been any subsequent development of importance in connection with the interpretation of this part of the Constitution.

I do not understand how the Senator from New York is entitled to say that we are talking about only the original Constitution; and this principle has been reaffirmed from time to time since then.

But if it is desired to change the Constitution, why not propose a constitutional amendment to change it, as was done in the poll tax case? I do not think the procedure now proposed is at all proper.

Furthermore, there are no printed hearings and there has been no consideration as to whether a sixth-grade education is sufficient.

I used to be a professor—not only in Arkansas, but also in Washington, D.C. In Washington, D.C., I taught at the George Washington University Law School. Many of those who attended classes at the George Washington University Law School—which is not a bad law school—had had 2 years of college education. But many of them were hardly literate, could barely understand what they were reading, and had difficulty writing a legible sentence. In short, there is a great difference of opinion as to whether a sixth-grade education makes one literate.

However, it is important for all Senators to realize that the very serious proposal now before the Senate does not have adequate support in terms of printed hearings available for our study. Yet certainly this proposal is a very important one for all of us.

I know that on occasion the Senator's party, at least, used to state that the States were laboratories; that thus we have 50 laboratories; and that there is great merit in allowing diversity as between them.

We have complained about the action of the Russian Government in imposing conformity upon all persons under its control, and about the Russian Government's requirement that all persons follow the policies and views of the Kremlin. On the contrary, we have stated that one of the virtues of our country is that it has 50 different States, and that some of them can move forward because they have initiative and imagination in their leadership, and others fail to do so.

Under such circumstances, why do some Senators now seek to impose uniformity on the entire Nation—inasmuch as one of the great qualities of our country has been diversity? It is said that Americans understand and value the importance of diversity, as compared with absolute unity; whereas the Russian Government insists upon absolute unity, and will not allow the slightest diversity.

But the measure now under consideration is an attempt to make all our States exactly the same, so that our country will have a homogenized society—in short, to make sure that all who vote shall have a sixth-grade education. I suppose that following the passage of such a law, a sixth-grade education would soon be accepted as the limit, and very likely it would be considered that no one need obtain more than a sixth-grade education—with the result that all would be equal at that low level of education.

Mr. KEATING. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I shall yield; but, first, I wish to say that I did not realize that by being complimentary, one could stir up such an intellectual ferment.

Mr. KEATING. The Senator from Minnesota began it by discussing flowers. [Laughter.]

Mr. HUMPHREY. Yes. For some reason I seem to be a catalytic agent.

Mr. KEATING. Yes; the Senator from Minnesota is many good things, and that is one of them.

Mr. HUMPHREY. I thank the Senator from New York; and, after that compliment by him, I yield to him.

Mr. KEATING. I must answer the Senator from Arkansas.

So far as I am concerned, the States could fix—within reason—any test for literacy; let the States do it. But they must administer the test fairly, in dealing with all citizens, for all have an equal right in that connection.

But the volumes of evidence which have been accumulated show, that often when a person with black skin and a person with white skin walk to a polling place and answer the literacy test questions in the same way, the person with black skin is not allowed to vote, but the person with white skin is allowed to vote. The issue in the United States today is just that simple; and that is what this bill is designed to deal with.

Furthermore, I must add that the Senator from Arkansas must be misinformed when he states that no hearings were held. We have a volume of hearings, and I think the printed record was made available yesterday. Our Constitutional Rights Subcommittee held hearings for hours and listened to many witnesses, and there is a large volume of testimony.

Obviously—the situation being what it is—it is not possible to report a bill from the Committee on the Judiciary.

Mr. FULBRIGHT. Cannot the hearings be printed, then?

Mr. KEATING. They are printed, and I understand that they were made available either yesterday or today.

Mr. FULBRIGHT. I have not seen a volume of hearings placed on my desk.

Mr. KEATING. I was told that they were available yesterday. At any rate, the hearings are voluminous, and certainly the printed hearings will be available on Monday, at least—and I understand that we can reasonably expect that the bill will still be under consideration by the Senate on Monday.

Mr. HUMPHREY. I think the Senator from New York is not guilty of exaggeration when he expresses such an understanding.

Mr. FULBRIGHT. Mr. President, will the Senator from Minnesota yield again to me?

Mr. HUMPHREY. I yield.

Mr. FULBRIGHT. I wonder why in the bill a special provision is included for Spanish-speaking persons, but not for persons who speak Polish or for persons who speak Italian. There are some very fine Italian-speaking citizens in Arkansas. Why is this special provision not broadened to include other nationalities? Is it for the benefit of the Puerto Ricans in New York State?

Mr. KEATING. I shall state the theory behind this bill, drawn up by the Attorney General. I did not draw up the bill; it was drawn up by the Attorney General. It was felt that all States or Territories of the United States which have well established schools should be on the same footing. The bill has no provision about Spanish-speaking citizens, so far as I recall. The bill deals with those who complete a sixth-grade education in any State or in Puerto Rico.

Mr. HUMPHREY. That is correct.

Mr. KEATING. The bill contains no reference to ability to speak Spanish or ability to speak Italian or ability to speak any other language.

Obviously, as to a foreign country there might be a different rule, in the case of those who had finished a certain amount of education in a foreign country; and I can see how it would be very difficult, in that connection, to include a satisfactory definition in a piece of legislation.

Mr. FULBRIGHT. Let me make one further observation in connection with the first statement by the Senator from New York about enforcement of the law. He continues to talk about the need for better enforcement of the existing laws. Of course I do not disagree as to that; I think there should be. But I believe that in this particular respect he is confusing the function of the legislature and the function of the executive.

This bill is not going to cause the laws to be enforced any better than they are enforced now, unless the Attorney General rouses himself and unless the Department of Justice rouses itself, with the result that they enforce the laws which now are on the statute books.

But I do not think the Senator from New York can say in all good faith and conscience that the Attorney General does not now have in his grasp some very powerful tools.

Mr. KEATING. I concede that; and in his testimony before our subcommittee the Attorney General virtually conceded that—if, at the end of another 20 years or 30 years, or so, he might be able to bring enough lawsuits to insure that all citizens would be allowed to exercise their right to vote. But his point is that he has one case pending now in which, I think he said, he had 83 witnesses to insure that one person, or a group of persons, involved in the lawsuit, would have the right to vote.

If the facts which I cited a moment ago were shown, namely, the use of a literacy test to bring about discrimination in voting, I concede to the Senator that that fact would give the Attorney General certain rights under existing legislation. However, this is a long, slow process in the courts in certain areas of our country, and it requires an inordinate amount of work on the part of the Attorney General to see to it that no person is deprived of his right to vote. I do not think he should have to do that for every single person. There should be legislation along general lines. I am not wedded to the exact provisions of this bill, but there should be legislation which lays down a rule so that election officials who are determined to defy the Constitution of the United States will not be permitted to deny people the right to vote.

Mr. FULBRIGHT. I invite the Senator's attention to page 2 of the bill which has been offered as an amendment, beginning on line 16:

that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources; that lack of proficiency in the English language provides no reasonable basis for excluding these citizens from—

And so forth. I was asking why the Spanish language was selected. Other languages were not selected.

Mr. KEATING. That language is contained in the findings; it is not a part of the legislation which sets forth the sixth grade as the standard. That language reads:

Anyone who has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

I presume the reason why that language is in the findings in the first part of the bill, which follows in general the findings of the Civil Rights Commission, is that in Puerto Rico, Spanish is the language spoken.

Mr. FULBRIGHT. How about New York? Do the Puerto Ricans speak Spanish in New York City?

Mr. KEATING. No; most of them do not, but a great many do. It applies to other parts of the country also.

Mr. FULBRIGHT. I wondered about it. There are very few, if any, Spanish-speaking citizens in my State.

Mr. HUMPHREY. Mr. President, if the Senator will yield, I think it is due to the inclusion of Puerto Rico in the language which states, "any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico."

Mr. FULBRIGHT. I have been told there are many Italians in New York City, too.

Mr. KEATING. I may add that, to a lesser degree in number, in areas bordering on Mexico, there are citizens who speak the Spanish language.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Minnesota that the editorial be printed?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE RIGHT TO VOTE

Southerners, and not only southerners, are making a constitutional argument against the literacy test bill now before the Senate. The argument rests on two propositions: (1) the Constitution gives the States absolute power to fix qualifications for voting, free from any Federal restraint; and (2) the proposed legislation would impinge on the States rightful exercise of their power. We disagree on both points.

The Constitution does provide, in section 2 of article 1, that voters for Congress shall have the qualifications fixed by each State for electors of the most numerous house of its legislature. But this provision, like all others in the Constitution, is subject to the overriding limitations imposed after the Civil War in the 15th amendment. The 15th amendment says that the right to vote shall not be denied or abridged on account of race or color. And it gives Congress the power to enforce that sweeping command by appropriate legislation.

No one would contend that a State's power to fix voting qualifications would allow it crudely to limit the franchise to whites. Of course the 15th amendment prevents that. But the amendment, as the Supreme Court has said, outlaws sophisticated as well as simple techniques of racial discrimination.

Attorney General Kennedy has testified—and there are volumes of evidence to support him—that the literacy test is today the principal device used to disfranchise Negroes in the South. Everyone knows the familiar stories of Negro college graduates being found illiterate because they did not pronounce a word or interpret a constitutional provision to the satisfaction of a registrar.

The proposed legislation is designed to prevent discriminatory use of such subjective oral or written tests of literacy. It provides that in any State which imposes such tests, education through six grades shall be proof of literacy. The sixth-grade standard was chosen because official and expert studies show that virtually everyone at that level is formally literate.

The bill would leave the States free to impose their own educational qualifications for voting. They could require three grades of schooling, or they could make voters have a college degree. Those are objective qualifications, applicable to white and Negro alike. What a State could no longer do is adopt the vague standard of literacy and then apply it unequally to citizens of different color.

That this would be appropriate legislation to enforce the 15th amendment can hardly be doubted in the light of history. It is time to put aside specious legal arguments and consider the real issue before the Senate and before the country—the right of Negroes to vote.

Mr. HUMPHREY. Mr. President, I am pleased we have had this exchange of views on the important subject of the amendment in the nature of a substitute proposed by the majority leader and minority leader, the so-called literacy amendment.

The editorial to which I referred makes a sound case. It recognizes the fact that the Constitution provides, in section 2 of article I:

That voters for Congress shall have the qualifications fixed by each State for electors of the most numerous house of its legislature.

The editorial goes on to point out that this particular article of the Constitution, like other articles, was modified by subsequent amendment. For example, the editorial states:

The 15th amendment says that the right to vote shall not be denied or abridged on account of race or color. And it gives Congress the power to enforce that sweeping command by appropriate legislation.

That is what the pending amendment, offered by the majority and minority leaders, seeks to do. This is the appropriate legislation to enforce the provisions of the 15th amendment.

No one—

As the New York Times editorial points out, and as many Senators in the debate have pointed out—

would contend that a State's power to fix voting qualifications would allow it crudely to limit the franchise to whites.

It is the purpose of the 15th amendment to prevent just that situation; but the amendment, as the Supreme Court has said, also outlaws sophisticated as well as simple techniques of racial discrimination.

The Senator from New York was speaking of certain sophisticated techniques of racial discrimination. The Attorney General's testimony, for example, revealed that there were volumes of evidence to support the contention that the literacy test is today the principal device used to disfranchise Negroes in the South. Everyone knows the familiar stories of Negro college graduates being found illiterate because they did not pronounce a word or interpret a constitutional provision to the satisfaction of the registrar.

The editorial continues:

The proposed legislation is designed to prevent discriminatory use of each subject of oral or written tests of literacy. It provides that in any State which imposes such tests, education through six grades shall be proof of literacy.

This is an important observation of a newspaper that has gained fame for its knowledge of education matters. The editorial continues:

The sixth grade standard was chosen because official and expert studies show that virtually everyone at that level is formally literate.

Some other standard could have been chosen. The point of the amendment is that, whatever standard is set as a criterion or qualification for literacy, that standard must be applied uniformly with equal justice. There can be no direct discrimination on voting qualifications, and there can be no indirect, subtle, or so-called sophisticated discrimination that would outlaw or prevent the exercise of the ballot. That is what the issue is all about; and I think the vast

majority of Americans would recognize that this is a reasonable and moderate request and proposal, and that the 15th amendment does specifically state that the mandate of that amendment, the direction of that amendment, is to be fulfilled by "appropriate legislation." That is what the pending amendment is all about. It is the "appropriate" legislation.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. KEATING. The Attorney General pointed out in his testimony that, as he interprets this bill, the State could fix the fourth grade or the fifth grade, or, indeed, the eighth grade, as the test, so long as it did not require discretion or the grading of a person based upon his performance in an examination. The stress is on what is set out beginning on line 15 of page 3 of the bill, "on account of his performance in any examination."

So if a State saw fit to say, "All right, we think the standard should be an eighth grade education," or "We think one should have a high school education before he can vote," and no test based on an examination was made, while I would not agree, the State could still fix such qualifications, according to the Attorney General's interpretation.

I do not know what educational requirement would satisfy our distinguished friend from Arkansas. Perhaps he feels that there should be a college education. I think that would go too far. Perhaps the Senator would go much further. According to the Attorney General's interpretation, the Senator need not worry, because any State could fix any qualification it wished so long as it was definite and uniform and was an objective test, and was not the subject of a test which required performance in an examination. That is where the abuses have arisen, as the Senator knows.

Mr. HUMPHREY. The Senator is correct.

Mr. President, I wish to inform the Senate that the hearings which have been alluded to this afternoon are in galley proof.

It is my understanding that copies will be available tomorrow. The hearings comprise more than 300 pages, covering testimony of witnesses both for and against the proposal before the Senate. There will be time for Senators to study them over the weekend. Any Senator who has a deep interest in this measure—and I hope all Senators have—will be able to pick up a copy of the hearings sometime tomorrow. He can study them Saturday afternoon, Saturday night, all day Sunday, and all night Sunday.

ORDER FOR RECESS UNTIL MONDAY

Mr. HUMPHREY. Mr. President, so that Senators may have some idea as to the plans for the coming week, I ask unanimous consent that when the Senate concludes its busy day—which I hope will be very shortly—the Senate may stand in recess until 12 o'clock noon on Monday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. MORSE. Mr. President, the Senator asked that the Senate stand in recess?

Mr. HUMPHREY. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. KEATING. The Senator referred to the hearings. I should be less than honest and less than fair if I did not say that the distinguished chairman of the subcommittee, the Senator from North Carolina [Mr. ERVIN], whose views differ from mine as far as could possibly be imagined—they are at opposite ends of the pole—conducted the hearings with the utmost of fairness and gave to those on both sides of the controversy a full opportunity to be heard. As a member of that subcommittee, I feel I should commend the Senator from North Carolina for the manner in which he conducted these hearings. He conducted the hearings with dispatch and great fairness.

INTERNATIONAL LADIES' GARMENT WORKERS' UNION INVESTMENT IN INSURED FARM LOANS

Mr. HUMPHREY. Mr. President, I have one further item to discuss, and then I shall yield the floor, so that my good friend from Oregon may proceed.

This morning David Dubinsky, president of the International Ladies' Garment Workers' Union, met with Secretary of Agriculture Freeman to discuss the investment that Mr. Dubinsky's union is making in the development and strengthening of family type farms.

I think it is a most interesting situation when one of the large trade unions in the Nation comes to the rescue of American family farmers in regard to their credit needs. Only a week ago I addressed the Senate on the need for additional farm credit.

Many have recognized the close relationship that exists between the farmer and the industrial worker, and many have pointed out the ways in which the welfare of one depends upon the strength of the other. But what transpired today is an example of action that turns generalizations into reality. This labor union is investing pension funds to help small farmers acquire the land and other resources they need for success in modern-day farming. This is really sealing the bond of friendship.

With the permission of the Senate I wish to insert in the RECORD a release issued by the Department of Agriculture which describes exactly what took place. I understand that Mr. Dubinsky at the meeting announced that his executive committee had authorized the investment of $100 million in insured farm loans during the next 4 years.

I ask unanimous consent that the release may be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
Washington, April 27, 1962.

UNION INVESTS $20 MILLION IN INSURED FARM LOANS

A labor union is investing its pension funds to help finance the development of family farms in the United States.

The International Ladies' Garment Workers' Union, AFL–CIO, is making available approximately $20 million for insured farm loans in 1962.

This action was announced today following a meeting of Secretary of Agriculture Orville L. Freeman and David Dubinsky, president of the ILGWU, in the Secretary's office.

It is the first time union funds have been invested in the insured farm loans. During the past 4 months the ILGWU has invested $7.5 million in these loans, and Mr. Dubinsky today offered to purchase an additional $12,375,000 worth.

The loans purchased to date have been made on farms in 39 States. (List of States is at end of release.)

The loans will be used to improve, enlarge, and purchase family farm, refinance farm debts, and develop water systems for farm households and for irrigation.

The loans return 4.5 percent interest to the lender. Farmers pay 5 percent interest, and a half of 1 percent is retained by the Government for insurance purposes.

"We welcome this evidence of a strong common bond between the farmer and the worker," Secretary Freeman said. "American labor has supported farm programs which are in the interest of the farmer because they are in the long-range interest of all people. A healthy family farm economy means an abundant supply of food and fiber, and the family farmer has made food one of the greatest bargains in the marketplace today.

"Both the farmer and the worker support those efforts which contribute to a strong national economy. In this case, the ILGWU has made an investment in building a strong farm economy," the Secretary said.

President Dubinsky commented that "We are well aware of the tremendous amounts of industrial products consumed by farm families. We also are delighted to play a part in strengthening and maintaining the independent family farm system upon which our Nation was founded.

"We are especially pleased that this is being done with reserves from pension funds contributed by employers as a result of collective bargaining agreements."

Insured loans are made and serviced by the Farmers Home Administration. The insured notes are sold to private investors. The Government collects the principal and interest payments when due and forwards the receipts to the lenders. Lenders agree to hold the notes for at least 3 years. If borrowers default, the Government agrees to make the payments.

Banks, insurance companies, trust funds, and retirement funds have previously been the principal investors.

The insured loans program was started in 1947. Since that date more than $390 million has been invested. Repayments of principal have totaled $100 million. Losses

have amounted to less than one-tenth of 1 percent.

Applications for insured loans are made at the county offices of the Farmers Home Administration.

Supervision in farm and home management is provided by the Farmers Home Administration with each loan.

Insured loans are made only when a farmer is unable to obtain the credit he needs from other sources.

States in which loans have been made with ILGWU funds are: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

Mr. HUMPHREY. Mr. President, in the year 1962 the International Ladies' Garment Workers' Union has made available approximately $20 million for insured farm loans. This is the first time that union funds have been invested in the insured farm loans. During the past 4 months the ILGWU has invested $7.5 million in these loans, and Mr. Dubinsky today offered to purchase an additional $12,375,000 worth.

Loans purchased to date have been made on farms in 39 States.

The loans return 4.5 percent interest to the lender. The farmers pay 5 percent interest, and one-half of 1 percent is retained by the Government for insurance purposes. Members of the Senate, of course, know that the insurance provisions referred to were authorized in the Farmers Home Administration Act of 1947. Since that date more than $390 million has been invested in farm insured loans, and repayments of principal have totaled $100 million. Losses have amounted to less than one-tenth of 1 percent, and there has been a rather good return on the interest. There is a charge of one-half of 1 percent which goes into the guaranty loan fund to take care of any losses.

Applications for insured loans are made at the county offices of the Farmers Home Administration

Supervision in farm and home management is provided by the Farmers Home Administration with each loan.

Insured loans are made only when a farmer is unable to obtain the credit he needs from other sources.

Mr. President, I compliment the International Ladies' Garment Workers' Union for this statesmanlike act of cooperation between the farmer and the worker. This will be a sound investment of pension and welfare funds.

It is refreshing, after we have heard so much criticism over the years about the practices of a very limited number, in and out of the labor movement, with regard to health and welfare funds—which practices led to corruption or misuse of funds—to now learn that one of the great unions of our country, under enlightened leadership for years in the persons of Mr. Dubinsky and his fellow officers, has wisely made available pension and welfare funds of workers for investment purposes in farm loans for family farmers, to aid particularly the young farmer who comes to agricultural production with heavy requirements for machinery and land. I salute this union. I am very happy it has set an example for others to follow.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. MORSE. Mr. President, I had planned to speak briefly on this occasion about two unrelated subject matters—lumber and liquor—but I have been so inspired by the colloquy which has taken place on the pending measure that I think I shall preface those two speeches with a brief comment on a third subject. This deals with the matter of what ought to be the qualifications by law for the privilege of voting.

I share the point of view that there should be no educational qualifications at all. I think buried in the committee somewhere there is the Morse bill, which I have introduced on several occasions, which would remove any restrictions so far as educational qualifications are concerned in the exercise of the precious guarantee of freedom which is the right of the franchise.

I shall vote for the pending proposal, if given an opportunity to vote upon it, but I should prefer to have no educational requirements at all. I think it is a basic fallacy to assume that unless one has the equivalent of a sixth grade education he or she is not qualified to pass judgment upon the qualifications of politicians, or upon any other issue which may appear on the ballot.

I point out that those who do not have a sixth-grade education are taxed. We hold them responsible for all other Government obligations. I seriously question the soundness of the philosophy of any proposal which would impose an educational requirement upon voters.

I raise the question as to how sure we can be that meeting some educational standards would make a voter better qualified to exercise the right of citizenship.

I make that statement as an old teacher, and as the chairman of the Education Subcommittee of the Senate Committee on Labor and Public Welfare. I believe in more support for educational institutions, as the Senate well knows. In fact, the subcommittee of which I am chairman recently completed public hearings on S. 2826, the Improvement of Educational Quality Act, which seeks to provide aid to the teaching profession of this country by way of advanced training institute programs, scholarships, and other assistance to enable them to become even better teachers.

I do not, however, think an educational standard is a proper standard to lay down in determining whether or not a free man or woman should have the right to vote. I am not sure that any such standard would result in an improvement in the exercise of voting judgment.

I take note of the fact that in India approximately 90 percent of the voters would be considered illiterate by the standards set forth in the bill. It does not follow that the people of India are politically illiterate even though they might be designated as educationally illiterate in accordance with standards such as are set forth in the bill. I take note of the fact that in a great many countries whose citizens attained the right to vote after decades of long struggle, a much higher percentage of people than in the United States exercise their right to vote.

There is something basically unfair about an arbitrary standard such as is proposed and such as exists in a good many of the State laws now on the books.

Let us not forget that the people who do not meet these arbitrary educational standards either in the bill or in some State statutes are the product of all of us. If a considerable number of people in our country do not have the equivalent of a sixth grade education, we should not jump to the conclusion that this is their fault. We should take a look at ourselves and ask ourselves this question, "To what extent am I partly responsible for the fact that we have not developed the educational resources and services of our country to the point that the number of those who do not have the equivalent of a sixth grade education is not reduced far below the number that presently exists?"

I ask Senators to reflect on what I think is a major question in the present discussion. Is it true that merely because Tom or Mary does not have the equivalent of a sixth-grade education, he or she is really not qualified to determine who shall be their U.S. Senator, Representative, or any other elective official? If the conclusion is that such a standard ought to be imposed, I challenge the precedent, for I have known many an intelligent but illiterate person. I think it is too bad that in so many cases much talent has been wasted. Too often these men and women are the victims of circumstances.

Many of us who came up from the grassroots of America, or whose ancestors were part of the grassroots of America, do not have to look very far back along our family tree to recognize that some of the finest American stock never entered the sixth grade classroom or for that matter any classroom at all.

My father was an uneducated man—bless his memory—but one of the most intelligent I have ever known. He was self-educated in the sense that he enlightened himself. He came up the hard way. He knew what poverty and misery were. As I read the bill, I am not so sure whether under its provisions he would be allowed to vote. But I knew him to be smarter than most of the politicians on the tickets that he had to choose from during his voting years. It is very easy for us during the course of

the legislative process to lay down an arbitrary standard. We then proceed for days with debate on the assumption that that standard is a sound one upon which to base the whole debate. I query it tonight. I shall vote for the bill, but not because it contains the literary test standard. I shall vote for it only because I recognize that it is a vehicle through which we can approach another great problem which confronts our democracy.

I tried to bring out during my very enjoyable colloquy with the distinguished Senator from North Carolina [Mr. ERVIN] earlier today that, when all is said and done, the purpose of the bill is to provide a legislative vehicle which will meet the challenge that is being made, and the criticisms which have been advanced. Such a vehicle is necessary in order to assure full first-class citizenship privileges to many colored people in this country who, it is alleged, are denied voting privileges at the present time by very arbitrary practices.

I would much prefer a vehicle which does not lay down an arbitrary standard. I would rather, in the case of those able and intelligent though illiterate citizens, though they cannot read or write, to have someone mark their ballots for them under proper supervision at the polling place.

If we, as a nation, have permitted an educational system to develop in which there are still many thousands of adults who cannot meet the educational standards of the bill, we ought to blame ourselves as much as those people. We have no right to impose upon them a retribution because of their lack of a formal education.

I still hold to the point of view that a free American citizen, irrespective of his or her formal education, should be allowed to vote. It is a fundamental right of citizenship which we have no real justification for denying by the imposition of arbitrary standards.

IMPROVED FOREST SERVICE POLICY FOR TIMBER PURCHASERS

Mr. MORSE. Mr. President, on January 18 of this year, I wrote to Secretary Freeman indicating my concern over the impact of Canadian lumber imports on the segment of the forest products industry in Oregon which is dependent upon national forest timber.

I was pleased when on April 18, I received an excellent letter from Secretary Freeman setting forth his agreement with me on a suggestion that I had made for improvements.

The first five paragraphs of Secretary Freeman's letter deal with a question relative to timber pricing. I had asked the Secretary to review the pricing policy. The Secretary's response must be read along with a letter from the Chief of the Forest Service dated April 24, which gives a detailed discussion of timber appraisal practices in Canada.

I ask unanimous consent that the Secretary's letter of April 18 be printed in the record followed by the letter and report from the Forest Service dated April 24. Also, I ask that there be printed three additional letters—my letter to the Secretary of Agriculture, dated January 18, a response from Assistant Secretary Welch dated February 14 and my further letter of February 27.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 18, 1962.

Hon. WAYNE MORSE,
U.S Senate.

DEAR SENATOR MORSE: This is in response to your letter of February 27 in respect to your proposal for adjustments in accelerated amortization policy for roads and for a statement on basic appraisal policy.

The objective of appraisal of national forest timber by the Forest Service is to ascertain its fair market value. In determining fair market value, the Forest Service places primary dependency upon analytical appraisal in which costs and selling values applicable to operations of average efficiency are used. Average cost and a margin for profit and risk is subtracted from average selling value to produce a residual called stumpage. Stumpage values thus indicated must take into account consideration of transaction evidence which is indicative of appraisal accuracy and purchasers' opinion of fair market value. The Forest Service, because of the limited sources for alternate purchases of raw materials by many mills in the West, strongly discounts competitive bidding effects in its consideration of transaction evidence. Nevertheless, transaction evidence is not entirely disregarded as has been advocated in the second proposal submitted by the National Lumber Manufacturers Association on February 21.

The issue over forecasting develops in connection with the selection of the price base for lumber and plywood used in appraisals. Timber is a separate commodity from logs, lumber, plywood, or pulp. The price pattern of all these commodities is related but each has its own pattern. Generally, raw materials have less price swing than do manufactured items. Thus, since the price of logs fluctuates in a much more narrow range than does the price of lumber or plywood, it is obvious that loggers and millmen do not follow the extremes of the lumber market in fixing log prices. It is also obvious that timber operators in making valuations of their own timber for income tax purposes are not relying primarily on the position of the lumber market at the time of the valuation and disregarding transaction evidence.

For many years the Forest Service has followed a policy of using a period in the past which it deemed suitable for developing the conversion return for the timber to be cut during a price period. Price periods for timber to be cut normally cover a 1- to 3-year period. In order to be more systematic, a guideline was developed to provide for use of the most recent calendar quarter for lumber prices but not below the lower quartile of the current market swing in lumber prices or above the upper quartile. The purpose of this limitation is to avoid extremes in the market swings, and not to engage in speculative forecasts of lumber prices. Use of this system does require a judgment determination of the expected price swing. This is an extremely modest forecast, the effects of which are limited to one-fourth of the total dimension estimated. It is now clear that there will be very little practical issue in 1962 over the use of the quartile system. Current indexes of lumber prices for all major species are now near or above the lower quartile.

In short, the policy of the Forest Service is to establish fair market value in its timber appraisals through the use of systematic analytical appraisal tempered with consideration of transaction evidence and also tempered by the use of judgment in determining the current position of the lumber market in respect to the swing in prices of lumber and plywood which are indicated from the study of recent price patterns.

Your proposal to permit, when feasible, amortization of estimated cost of timber purchaser road construction against one-quarter to one-half of the estimated timber sale volume introduces additional factors which have not been considered heretofore in establishing accelerated road amortization procedures. The objective of the present accelerated road amortization procedure is to eliminate risk of uncertainty of the volume of timber actually cut as compared to the estimated volume on which the appraisal and contract are based. Amortization on 80 percent of the volume is generally adequate to meet this objective. Your proposal to further accelerate road amortization is for the purpose of reducing the amount of working capital necessary for timber purchasers. We agree that it is desirable to reduce working capital requirements in connection with purchaser-built roads, which need to be constructed in advance of logging.

In line with your suggestion, the Forest Service intends, in quarterly stumpage rate adjustment sales, to permit more rapid amortization of main line road costs when it is necessary for the purchaser to construct such roads prior to logging. The purchaser in such instances will be given the option to request more rapid amortization of main line road costs subject to the understanding that the roads or segments of roads being amortized must be constructed by the purchaser and accepted by the Forest Service prior to the time the volume used to amortize such roads is cut and scaled. The necessary instruction to implement this change in policy will be issued as soon as possible.

Your interest in national forest timber sale policies and your suggestion on accelerated road amortization are appreciated.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., April 24, 1962.

Hon. WAYNE MORSE,
U.S. Senate.

DEAR SENATOR MORSE: We are glad to enclose a report on "Stumpage Prices and Pricing Policies in British Columbia." The Forest Service made this study because of widespread concern over the effect of Canadian lumber imports, primarily from British Columbia, on the lumber industry in the United States. Stumpage prices have been frequently mentioned as one factor favorable to lumber manufacturers in British Columbia.

The report shows that superficial comparison of stumpage prices for Crown and national forest timber can be misleading. The range of factors which must be taken into consideration for meaningful comparisons are developed. After allowing for such factors, it is evident that the British Columbia lumber industry is not obtaining significant competitive advantage because of appraised price level differences between crown and national forest timber.

Pricing policies and appraisal methods for sales of Crown timber by the British Columbia Forest Service are described and compared to forest service procedures for national forest timber. Appraisal policies and

methods of the two services are much the same, but competitive bidding is a minor influence in setting purchasers' cost of Crown timber in contrast to the major influence of competitive bidding on stumpage costs to national forest timber purchasers.

This report supplements the report on "Import of Softwood Lumber From Canada," which the Department of State furnished to you on March 22.

Sincerely yours,

EDWARD P. CLIFF,
Chief.

By CLARE HENDEE.

STUMPAGE PRICES AND PRICING POLICIES IN BRITISH COLUMBIA

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., April 24, 1962.

This study has been made to throw light on relationships between stumpage prices for timber on Crown lands of British Columbia and for National Forests of Oregon, Washington, North Idaho, and Montana. It also compares appraisal objectives and methods of the British Columbia and U.S. Forest Services.

The Province of British Columbia has a total area slightly less than the combined area of the States of Washington, Oregon, Idaho, and Montana. It is predominantly covered by forest growth. The commercial forest land in British Columbia is roughly equal to that in the four named States plus the commercial forest land in the State of California. Along the international boundary on the 49th parallel, British Columbia extends from the Pacific to the summit of the most easterly range of the Rocky Mountains opposite Glacier National Park. Along the Pacific coast it extends from Vancouver Island in Puget Sound to beyond southeast Alaska.

Total timber stand in British Columbia was estimated at 1,289 billion board feet in 1957. This compares to the 1952 estimate of 1,345 billion board feet of saw-log-sized timber in all the States west of the Great Plains except Alaska.

As in the Western States, the timber of British Columbia conveniently divides into a coastal and interior type. About 25 percent by volume is coastal timber and 75 percent is interior type.

British Columbia forests are extensions of the same timber types which predominate in the northwestern United States. The composition of these types, however, changes gradually as they approach their northern limits. Thus, in the coastal forests, the dominance of Douglas-fir in Oregon and Washington is supplanted by western hemlock and western red cedar in British Columbia. In the interior type forests ponderosa pine, the most important species in the Western States, is extremely minor in British Columbia. Spruce is the major interior species in British Columbia but is relatively minor in the Western States. The proportion of interior type Douglas-fir is approximately the same in British Columbia and the Western States.

FOREST DISTRICTS OF BRITISH COLUMBIA

Meaningful comparisons of forest conditions or stumpage prices for timber sales from British Columbia Crown lands and from the national forests in the Western United States must be on the basis of comparable timber areas. The British Columbia Forest Service is divided into five operating districts and sales statistics for each district are available. These British Columbia forest districts and the most comparable U.S. national forest areas are as follows:

The Vancouver district includes Vancouver Island and the adjacent coastal mainland. The Olympic, Snoqualmie, and Mount Baker National Forests in northwestern Washington have the most comparable timber and operating conditions in the States, but with higher timber quality than prevails in the Vancouver district.

The Prince Rupert district includes the northwestern portion of commercial timber of British Columbia including the Queen Charlotte Islands. In addition to coastal forest type, it includes some interior-type forest growth. The adjacent Tongass National Forest in Alaska is comparable to the coastal portion of the Prince Rupert district. There is a small amount of Douglas-fir in the coastal portion of the Prince Rupert district but none on the Tongass National Forest. While no national forest area in the United States is closely comparable to the interior portions of the Prince Rupert district, the Kaniksu, Kootenai, Flathead, and Coeur d'Alene National Forests in western Montana and northern Idaho have more similarity than any other U.S. areas.

The Kamloops district is in the southern midinterior portion of British Columbia and is comparable to the adjacent Okanogan and Colville National Forests of eastern Washington.

The Nelson district is in southeastern British Columbia and is comparable with adjacent national forests in north Idaho and western Montana.

The Prince George district is in the central interior of British Columbia. Spruce is the predominant species. There is no area in the United States fully comparable to the Prince George district. The Kaniksu, Kootenai, Flathead, and Coeur d'Alene National Forests in western Montana and northern Idaho have more similarity than any other U.S. area.

TIMBER MEASUREMENT

In comparing timber statistics between United States and British Columbia sources it is necessary to find a common denominator to make comparisons valid. While lumber footages are measured the same in both countries, log scale footages are not. In the United States two methods are used: (1) In coastal areas west of the Cascades, Scribner decimal C long log scale, with a maximum scaling length of 40 feet is standard; (2) interior areas east of the Cascades also use the Scribner decimal C log rule, but here the maximum scaling length is 16 feet. With average log taper the difference in maximum scaling length will make a difference of 8 to 15 percent in the scaled volume of a batch of logs.

Coastal British Columbia's standard scaling rule is the British Columbia log rule, which appears to yield results approximately 5 percent lower than Scribner decimal C long log scale. However, by far the largest portion of British Columbia log scale, including all of the interior and part of the coastal zone, is by the British Columbia cubic foot rule. The unit of measure with this rule is the cubic foot, rather than the board foot. Conversion factors between board feet and cubic feet are heavily dependent on timber size and taper. Hence average conversion factors cannot develop precise results. In this report we have used a converting factor of 1 cubic foot equals 6 board feet U.S. Scribner decimal C long log scale, and 1 cubic foot equals 5.80 board feet Scribner decimal C short log scale. The British Columbia Forest Service uses 1 cubic foot equal to 6 board feet British Columbia scale on the coast and 1 cubic foot equal to 5.75 board feet British Columbia scale in the interior.

TIMBER QUALITY

Timber quality on the average, for the entire Province of British Columbia, is lower than that on adjacent U.S. interior and coastal stands.

(a) Coast: Although no interchangeable log grade system exists between British Columbia and the United States, a rough idea of the quality of the leading British Columbia coastal softwoods may be gained by comparing British Columbia quality expressed in British Columbia statutory log grades with U.S. quality obtained from sale reports. The following table compares quality reported for sales in the fourth quarter of 1961 of coastal Douglas-fir, cedar, and hemlock in the Vancouver Forest District with quality for all sales made in 1961 on the Mount Baker National Forest.

[In percent]

Log grade		Douglas-fir		Cedar		Hemlock	
United States	British Columbia	United States [1]	British Columbia [2]	United States [1]	British Columbia [2]	United States [1]	British Columbia [2]
No. 1 and No. 2 peeler and No. 1 sawlog.	No. 1	14	3	11	11	10	6
No. 3 peeler, special peeler, and No. 2 sawlog.	No. 2	69	51	57	33	62	21
No. 3 sawlog and poorer.	No. 3 and poorer	17	46	32	56	28	73
Total		100	100	100	100	100	100

[1] Mount Baker National Forest 1961 sales.
[2] Vancouver district, October, November, and December 1961.

British Columbia No. 1 logs are approximately equivalent to No. 1 and No. 2 peelers and No. 1 sawlogs in the United States. Thus U.S. Douglas-fir, which grades out 14 percent No. 1 as compared with 3 percent in British Columbia, is of a significantly higher quality. Similarly, the U.S. Douglas-fir grades out only 17 percent of No. 3, the lowest grade, as compared with 46 percent for British Columbia timber.

The comparison of cedar grades shows U.S. cedar also to be of higher quality with 57 percent grade 2 as compared with 33 percent in British Columbia. Hemlock shows the same trend, producing 10 percent peeler and No. 1 saw logs in the United States as compared with only 6 percent of comparable grade in British Columbia and only 28 percent grade 3 as compared with 73 percent of that grade in British Columbia.

These differences in log grades average about $7 per thousand board feet for Douglas-fir and $2.50 per thousand board feet for hemlock and western red cedar at log values in use for the western Washington National Forests in 1961.

(b) Interior: Since no log grading has been done in the British Columbia interior, precise comparisons of timber quality with

corresponding timber types on U.S. National Forests are not possible. A good indication, however, can be obtained from comparison of quarterly average dressed lumber prices in the interior as reported by the British Columbia Forest Service, with Western Pine Association lumber price indices for the same periods. The attached graph (fig. 1) shows that average British Columbia prices compare fairly closely with western pine indices for white pine, but are much lower for fir-larch and spruce. A portion of the difference can be ascribed to differences in the dollar exchange rate and to the fact that much of the British Columbia production is partially air dried while most of the U.S. production is kiln dried or fully air dried. However, a large component of the difference is a reflection of poorer quality spruce and fir in British Columbia.

Comparison of dressed lumber prices in interior British Columbia with Western Pine Association lumber price indexes

	White pine		Spruce		Fir-larch	
	British Columbia price	WPA index	British Columbia price	WPA index	British Columbia price	WPA index
1958	$99.34	111.01	$57.19	79.86	$53.45	68.57
1959	96.62	108.60	60.92	84.20	60.97	76.33
1960	92.61	101.80	55.83	79.08	55.28	71.41
3-year average	96.19	107.14	57.98	81.05	56.57	72.10
Difference		+10.95		+23.07		+15.53

Because British Columbia prices listed above are net, f.o.b. mill, a deduction of 7 percent for discounts and commissions should be made from western pine indexes to obtain closer comparability. Even after this adjustment, however, differences are significant. For spruce the difference drops from $23.07 per thousand to $17.40 per thousand, which is still a big difference for that species.

FOREST LAND TENURES AND INDUSTRIAL DEPENDENCY IN BRITISH COLUMBIA

An understanding of the important classes of land tenure is essential to a discussion of timber valuation in British Columbia. The two major classes of land tenure are (a) private or crown granted land and (b) crown land.

There are four classes of private land: (1) Full free hold, (2) free hold, except for payment of a fixed royalty, (3) free hold, except for payment of a statutory royalty, and (4) Esquimalt & Nanaimo Railway Co. lands with special title privileges. These private lands provided 19 percent of the timber cut in 1960 for British Columbia. By far the larger proportion of these lands are in the coastal area, particularly on Vancouver Island. The largest single block is the Esquimalt and the Nanaimo Railway lands which cover approximately 2 million acres of some of the choicest timberland of British Columbia. The Canadian Pacific Railway Co. now controls this grant and has sold all but 475,000 acres of this grant.

In British Columbia, acquisition of land title must be obtained from the Provincial Government. Land which has not been alienated from public ownership of the Province is termed crown land. Toward the end of the 19th century, public sentiment turned against outright alienation of forest lands in fee simple and for a time a special licensing system was used. These special timber rights are generally known as temporary tenures, or timber licenses, leases, and berths. Licenses are a right to cut timber on crown land which must be renewed annually. Special timber licenses were first issued in 1884 and none were issued after 1912. A timber lease is a temporary right to cut timber from crown lands for fixed periods of time renewable for successive periods of 21 years. Leases were first granted in 1870 and the practice was discontinued in 1906. Timber berths are licenses to cut timber on lands which were granted to the Dominion (Federal) Government by the Province and subsequently disposed of by the Federal Government. The holders of leases, licenses and berths pay ground rent of from $50 to $140 per square mile annually and statutory or regulation royalty. These so-called temporary tenures are for all practical matters indefinite tenures. The class of timber is for practical purposes private stumpage which is held without fee title to the land. Twenty-one percent of the total cut in British Columbia in 1960 came from these areas of temporary tenure on crown lands.

Since 1912 timber sales have been the major method of disposing of crown timber. A timber sale is a license to cut crown timber which is sold by public competition and subject to terms and conditions as stated in the timber sale contract. In general, the timber sales made by the British Columbia Forest Service are comparable to the timber sales made on the national forests in the United States.

A tree farm license is an agreement by the crown and the licensee for the management of crown lands which are reserved for the sole use of the licensee for the purpose of growing continuously and perpetually successive crops of timber. The tree farm license (originally termed forest management license) system was established by an amendment to the Forest Act in 1947. This license system is designed to enable private concerns to practice sustained-yield forestry on crown land. The licensee must include his own tenures if they can be managed logically with the crown land. It is possible, however, for licenses to be made up entirely of crown lands. The applicant for such a license must prepare working plans (timber management plans) for the crown lands and his private tenures which are to be included. The licensee must assume protection and management expenses for the entire area under a tree farm license. The licensee purchases crown timber at appraised price without competition. Ten percent of the cut in British Columbia in 1960 came from the crown areas within tree farm licenses. Most of the tree farm licenses are on Vancouver Island and the adjacent mainland. There are a few tree farm licenses in each of the four other forest districts of British Columbia.

Fifty percent of the cut in 1960 in British Columbia came from public sustained-yield units. These public sustained-yield units may be grouped into three categories: (1) Uncommitted working circles; (2) fully committed working circles; and (3) overcommitted working circles. In uncommitted working circles, requests for sales are accepted from any bona fide applicant. In fully committed working circles, applications for sales are accepted only from the established operators within the units. A fully committed working circle is one, therefore, in which the established operators have purchased the right to cut the total allowable annual cut. This process is known as the licensee priority system and is popularly known as quota system. However, the quota covers only the right to apply and to control the timing of the sale. The sale must be purchased at auction in order for the applicant to retain his quota and the right to reapply for additional timber. In overcommitted working circles, the cutting capacity of established operators substantially exceeds the allowable annual cut. Each established operator is then only entitled to apply for his proportionate share of the available allowable cut. Timber is still subject to bidding but in 1960 legislation was enacted to permit sale by sealed bid on the request of the quota holder who can meet the highest sealed bid and thus preempt the sale. This system has resulted in adjustment of cutting capacity without strong overbidding. Operations have been consolidated and some operators have moved elsewhere as the result of this system. The system has been extended by further act of the legislature in 1961 to apply to fully committed working circles.

TIMBER SALE POLICIES

A statement which has often been quoted in connection with British Columbia forest policy was made by Chief Justice Gordon Sloan in his 1956 report as commissioner under the Public Inquiries Act, entitled "The Forest Resources of British Columbia":

"We live by our exports. We must sell on world markets in order to survive. Our forest policies must in consequence be geared to the stark necessity of assisting our industries in every reasonable way to remain competitive in these markets. It is, in consequence, essential for us to take a long look out of our windows to see what is transpiring in other parts of the world and to adjust our perspective according to what we see."

However, there is no legislative or administrative provision which authorizes or directs the British Columbia Forest Service to subsidize exports by pricing stumpage below its fair market value.

Total timber cut from the Province in 1960 for manufacture into lumber, plywood, pulp, and other forest products was approximately 7 billion board feet. Approximately 60 percent of the total cut, or 4.2 billion board feet, came from sales of crown timber appraised and sold by the British Columbia Forest Service (3.5 billion feet from advertised sales and 0.7 billion feet through direct sales to tree farm licensees). Since the licensee priority system tends to make appraised prices the actual sale prices, the cost of stumpage currently being cut is fixed primarily by appraisals of the British Columbia Forest Service for approximately 60 percent of the total cut in the Province.

In the Pacific Northwest portion of the United States, approximately 25 percent of the cut comes from national forests and about 10 percent from other public lands. Hence about 65 percent of the cut is obtained from lands in private ownership. In western Oregon and Washington 30 percent of the national forest timber offered in 1960 was purchased at or within 1 percent of the advertised price. If this same ratio prevails for all public timber sales in the Pacific Northwest, the cost of stumpage for approximately 10 percent of the total cut is set by

appraised prices in the United States as compared to almost 60 percent for British Columbia.

Provincial policy is directed towards expanding British Columbia industry into the undeveloped interior where there is room for expansion. Interior Provincial forests are relatively undeveloped as compared with U.S. national forests in the Pacific Northwest. British Columbia crown forests can provide substantially greater volumes than they now supply to the Canadian forest products industries. Much of the interior commercial forest land has not as yet been organized into working circles under sustained-yield management plans.

In the United States, industry is using practically all of the current allowable sawlog cut from the national forests of Oregon, Washington, north Idaho, and western Montana. In Forest Service region 6, which covers Oregon and Washington, except for the northeastern corner of Washington, the cut in calendar year 1960 was 3.6 billion board feet and 3.8 billion feet was sold, as compared with a total allowable cut of 3.9 billion board feet. With an excess of mill capacity to process private timber and with virtually no unused cutting capacity on public lands, limitations on competitive bidding for public timber in the United States have not proved feasible.

ACCESSIBILITY

British Columbia coastal forests are principally accessible to tidewater. Portions of Washington and Oregon are tributary to Pacific coastal and Pudget Sound harbors and the deepwater channels of the Columbia and Willamette Rivers. The British Columbia coastal lumber industry depends almost exclusively on water shipment whereas the U.S. coastal lumber industry usually has alternate rail shipping facilities available. The rail freight rates to eastern markets from Portland, Oreg., and Vancouver, British Columbia, are identical; however, freight rates for water shipments to eastern U.S. ports differ appreciably. American cargo mills shipping to east coast American ports must use American-flag lines and pay rates approximately $7 per thousand board feet higher than Canadian cargo shippers using foreign-flag ships for shipment to the same market.

Interior British Columbia industry depends on rail shipping to its principal markets, eastern Canada, the United States Lake States, and other midwestern United States market points.

Accessibility to railroads in British Columbia interior is poorer than that of adjacent U.S national forest areas. Principal access to eastern markets is by two main Canadian trunklines which cross the Rocky Mountains. Accessibility has improved in the last 10 years and continues to improve in the interior. Stands of interior British Columbia timber became more accessible to market when the Pacific Great Eastern Railway was completed in 1957, opening up additional areas in the Prince George district. Rail freight rates to principal eastern markets (Toronto, Ontario; Chicago, Ill.; New York, N.Y.) from British Columbia southern interior (Nelson, British Columbia) are identical to those from Spokane, Wash., in the inland empire. Certain intermediate rail points on Canada's Pacfic Great Eastern Railroad have higher freight rates than those on the main transcontinental lines.

STUMPAGE PRICE COMPARISONS

Table 1 summarizes comparisons of stumpage prices for spruce, Douglas-fir and hemlock by British Columbia forest district and the most comparable national forest areas for calendar years 1958, 1959, 1960, and 1961. The table also develops weighted average species prices based on the percent of production in each British Columbia forest district in 1960. Both bid and advertised prices are shown for national forest timber. Only the contract price is shown for British Columbia because only fragmentary information on appraised prices was obtained for Province transactions.

Competition for public timber is much less in British Columbia than in national forest areas of the Pacific Northwest. For the Vancouver district, for example, overbids averaged 99 cents per thousand board feet for Douglas-fir and 60 cents for hemlock above appraised prices in 1961. In contrast, the overbids on comparable national forest areas in 1961 were $6.93 per thousand board feet for Douglas-fir and $2.90 for hemlock. While statistics on appraised prices in other districts were not obtained, bidding competition is known to be minor and nominal in districts other than the Vancouver district of British Columbia.

Table 2 and figure 2 show by forest districts stumpage prices for species which are produced in large volumes in British Columbia, and prices for comparable national forest timber.

A study of table 2 indicates that relationships between British Columbia and national forest timber prices vary between coastal and interior conditions and between good and bad lumber price periods. Coastal hemlock stumpage, for example, sold in British Columbia for $4.58 per thousand board feet in 1958, which was a poor year in the lumber market; in 1959, a good year, it was $5.06, or only 48 cents higher. In the United States, on the other hand, the average appraised price for hemlock in 1958 was $3.82 and in 1959 $9.17, or $5.35 higher. In addition, bid price on U.S. sales exceeded the 1958 appraised price by $3.74 or 98 percent; in 1959 bid price exceeded appraised price by $2.13 or 23 percent.

Coastal Douglas-fir consistently sells for lower prices in British Columbia than in the United States. This is primarily due to quality differences. Here, as with other species there is less sensitivity to the lumber market in British Columbia. Coastal Douglas-fir stumpage was $9.74 in 1958 and $13.98 in 1959, an increase of $4.24. U.S. stumpage for coastal Douglas-fir was $14.99 in 1958 and $30.69 in 1959, an increase of $15.70. U.S. competitive bidding compounded the differences, resulting in bid increases in 1958 from $14.99 to $22.70 or 51 percent, and in 1959 from $30.69 to $38.44 or 25 percent.

Interior Douglas-fir stumpage shows a close relationship between the Kamloops district and the adjacent Okanogan and Colville National Forests. U.S. appraised prices were $2.11 lower in 1958 and $1.27 lower in 1961 (1958 and 1961 were low lumber price years); they were $2.22 higher in 1959, a high lumber price year.

For spruce in 1958 and 1959, Prince George district bid prices were very close to appaised prices for the four north Idaho and western Montana national forests. In 1960 and 1961 Canadian bid prices have been about midway between U.S. bid and appraised prices.

These comparisons indicate in general that for the major interior species, United States and Canadian stumpage prices are quite close and follow similar patterns. Difference in price levels is due primarily to a much wider spread between bid and appraised prices for national forest timber in the United States.

There is a substantial difference in price level between Puget Sound National Forests and Vancouver Forest District stumpage prices for hemlock and Douglas-fir. This is largely due to differences in average timber quality. The difference in price patterns during the last 4 years is undoubtedly influenced by the use of log prices by British Columbia appraisers and lumber and plywood selling values by U.S. appraisers. However, the largest single factor in total differences between United States and Canadian stumpage prices is the intensive competition in the United States which results in spreads between bid and appraised rates which average close to three-fourths of bid rates in the Vancouver Forest District.

BRITISH COLUMBIA TIMBER APPRAISAL SYSTEM

The basic stumpage appraisal policy of the British Columbia Forest Service is to develop a system which will result in fixing fair or reasonable stumpage rates for crown timber, in keeping with its actual market value and price for all cases where this level is not fixed by freely competitive actual bidding. (Statement of J. A. K. Reid in report to Royal Commission on Forestry, 1955). This objective is the same as that of appraisals of the Forest Service, U.S. Department of Agriculture, the objective being to ascertain the current market value of national forest timber.

The basic formula for analytical stumpage appraisals is practically identical for the British Columbia and United States Forest Service appraisers. Each starts with net selling price (logs or lumber) at a shipping point, from which it subtracted the cost of operation to that point plus a margin for profit and risk to arrive at the residual value, stumpage. The selling values and costs of operation used in both countries are collected from the industry and are aimed at reflecting average industry experience.

Specific procedures in cost and selling value collection, classification and application of data vary between the appraisers of the two countries. Differences of major significance are discussed below:

In the coastal portions of British Columbia, appraisals are based on log selling values. The British Columbia log market prices are reported by the British Columbia Loggers Association. Reported prices include cost of towing to deliver logs to Howe Sound in the vicinity of Vancouver, British Columbia. In theory, log prices should reflect lumber and plywood prices, shipping expenses, manufacturing costs and grade recoveries obtainable from each log grade. Log prices, theoretically, should reflect any advantage in British Columbia due to lower shipping costs to eastern United States or any other markets and to foreign exchange differentials. It is difficult, however, to demonstrate that such factors have in fact been specifically taken into account in the log price quotations furnished by the British Columbia Loggers Association. Historically, log prices have not fluctuated to the degree that lumber and plywood prices have fluctuated. In the United States, the Forest Service appraisers use selling prices of lumber and plywood. Appraised prices in the United States have had a much wider swing both upwards and downwards from 1958 through 1961 than have appraised prices of British Columbia based on log market quotations.

In interior British Columbia, selling values for appraisals are based upon average prices of lumber compiled by public employees from shipping invoices of timber purchasers. The average price for the most recent 3 months is used. In computing prices received by the mill, freight cost and effects of foreign exchange rates where lumber is sold in the United States are taken into account. Thus, any advantage or disadvantage of freight rates or exchange rates is reflected in the lumber selling prices used in British Columbia appraisals. In the United States lumber selling prices in appraisals are adjusted to the most recent calendar quarter

through use of price indices of the Western Pine Association subject to certain limitations which will be described later.

British Columbia and United States appraisers approach the determination of profit margins in appraisals from an identical viewpoint but, again, detailed applications vary. Both British Columbia and United States appraisers use a profit ratio (profit margin expressed as the percentage of total cost including stumpage) to calculate profit margin. In both countries, timber appraisers must use judgment to adjust ratios for risks appropriate for individual sale circumstances. Limitations on the use in analytical appraisals of current selling value data during high or low points in lumber market swings to produce market value stumpage rates are recognized by both Services. Both Services subscribe to the proposition that temporary peaks and depressions in the lumber market can be unfair to either the buyer or the seller, as the case may be, if the profit ratio is held constant and strictly followed at all times.

In British Columbia when low log or lumber markets result in stumpage rates with normal profit which are less than 40 percent of the difference between selling values and costs (conversion return) stumpage is set at 40 percent of conversion return and the 60 percent of conversion return remaining for profit is less than normal profit. For U.S. appraisals, normal profit is maintained so long as conversion return is at least equal to normal profit plus minimum stumpage. The measure comparable to the British Columbia 40 percent of conversion provision is a lower limit on lumber and plywood selling price indices (the quartile system) in U.S. appraisals. These two methods of handling problems when end product values are near the lower market range work in the same direction but there is some variation in the resulting stumpage prices.

Another factor which bears on prices charged for stumpage during adverse markets is differing methods of determining minimum stumpage prices between British Columbia and the United States. In British Columbia, the minimum price at which timber is offered for sale is determined by choosing the highest results from three types of analyses:

1. Stumpage must be not less than 40 percent of conversion value, which is a difference between the selling value of the end product and cost of production.

2. Stumpage shall not be less than a fixed percentage of the selling price. This percentage is related to the percentage between bid rates for stumpage and log or lumber selling value. Currently this percentage is 10 percent of log selling price in the Vancouver Forest District; 8 percent of log selling price for the coast area in the Prince Rupert district; and 6 percent of the dressed lumber price used in the appraisal for interior areas.

3. Stumpage shall not be less than 1.5 times the statutory royalty. "Royalty" in British Columbia is a form of severance tax to which most public and private timber is subject. The royalty payment rates are established by law and were last adjusted in 1960. In general 1.5 times royalty is substantially less than minimum rates determined by a percentage of log or lumber value. Hence this limit for fixing minimum stumpage has significance only for unusual circumstances. For example, the statutory royalty for spruce is $1.50 per thousand board feet and hence the minimum stumpage rate is $2.25 per thousand board feet. In order to produce a minimum stumpage rate of $2.25 per thousand board feet through use of 6 percent of lumber selling values, the average price of spruce lumber would have to drop to $37.10 per thousand board feet—a virtual impossibility.

The effects of applying such policies have been to develop the following minimum prices by species in 1961:

Minimum price per M board feet

	Vancouver [1]	Prince Rupert [1]	Interior [2]
Fir	$6.33	$5.17	$3.24–$3.40
Spruce	4.17	4.83	3.34– 3.38
Cedar	3.83	3.17	----------
Hemlock	4.33	3.50	----------
Balsam	4.00	3.17	----------
White pine	4.67	3.67	----------
Cypress	3.83	3.17	----------

[1] 4th quarter calendar year 1961.
[2] 1st 11 months calendar year 1961.

Source: British Columbia Forest Service records.

Comparable U.S. minimum prices are: Coastal fir $5; interior fir $2; spruce $3; coastal cedar $3 to $4; interior cedar $2; coastal hemlock $2; interior hemlock $1 to $2.

The typical profit ratio used in British Columbia appraisals is 15 percent as compared to a 12-percent typical profit ratio in U.S. appraisals. However, the provision in the British Columbia appraisal system that stumpage shall not be less than 40 percent of conversion return or 6 percent to 10 percent of lumber or log selling price results in higher stumpage rates than for the U.S. system in periods when lumber prices are below a median range.

The interactions of prices, costs and contractual modifications of procedures in the United States and British Columbia are such that it is necessary to analyze each case individually to determine which system yields higher or lower stumpage prices. However, a reasonable generalization, assuming equal timber quality and equal accessibility and logging difficulty, is that the U.S. system gives higher stumpage when lumber prices are high, lower stumpage when lumber prices are low, and approximately equal stumpage when lumber prices are at the middle of their range.

Both British Columbia and United States appraisal pricing systems include provisions for interim stumpage rate adjustment (escalation). The details of operations of the two systems are quite dissimilar. In general, the U.S. procedure provides for a 50-percent quarterly escalation upwards or downwards based on lumber price indices. In British Columbia escalation is by a formula which results in reflecting a variable percent—as high as 90 percent under certain circumstances—of the price change in lumber or logs. No change in stumpage price occurs unless there is at least a 15-percent change in selling price of lumber or logs. The British Columbia Forest Service has indicated it is considering a substantial revision of its stumpage rate adjustment procedure. The changes under consideration are in the direction of greater sensitivity to fluctuations in market prices of logs or lumber.

SUMMARY AND CONCLUSIONS

1. Although the five administrative forest districts in British Columbia can be compared to somewhat similar areas in the national forests in the Pacific Northwest States, the British Columbia crown forests generally have timber of lower quality, have a less desirable species composition, and are situated on more rugged topography than the most comparable national forest areas. In addition to such natural differences, there are differences in methods of scaling, conditions of sale, and accessibility to market which must be taken into account to attain reasonable comparability for comparison of stumpage prices. Hence, comparison of stumpage prices is complicated and can only yield general indications and guidelines. Subject to the above qualifications, appraised stumpage prices in British Columbia and for the national forests in the United States have been either at closely comparable levels or where the levels have differed they are readily explainable by quality or other discernible value differentials.

2. Since direct comparisons of stumpage prices between British Columbia and the national forests in the United States must be used with caution, an examination of the objectives and methods of appraisal for public timber in British Columbia and the United States is also needed to judge comparative positions on raw material costs of United States and British Columbia timber operators. The timber appraisal objectives of British Columbia and the United States are both to determine fair market value. Appraisal systems in British Columbia and the United States are highly similar in general methods. Both countries use a timber appraisal system in which stumpage is the residual value which remains when costs of operation plus a profit margin are subtracted from sales realizations at the manufacturer's shipping point.

3. While there are a number of minor procedural differences between British Columbia and United States Forest Service appraisal practices, the one difference of major significance relates to provisions for determining profit margins. Profit ratios used in British Columbia are typically 15 percent as compared to 12 percent typically in U.S. appraisals. However, use of profit ratio to fix profit margin in British Columbia is confined to a relatively narrow range of cost-selling value relationships, and when log or lumber prices are low, profit margins are less for the British Columbia than for the U.S. system.

4. Under present market conditions, Provincial timber in British Columbia, after allowing for quality and accessibility differentials is being advertised at prices higher than comparable timber on the national forests of the Pacific Northwest. In the 1959–60 period when lumber and plywood markets were relatively favorable, appraised stumpage prices for national forest timber in the United States were higher than for comparable timber appraised by the British Columbia Forest Service.

5. A significant factor in the cost of timber obtained from Provincial forests of British Columbia as compared to national forest timber in the Pacific Northwest is the difference in average spread between appraised and bid prices. In British Columbia competitive bidding has been confined primarily to limited areas in the Vancouver Forest District, and even there has been moderate. In the Pacific Northwest portion of the United States, national forest timber sales have been characterized generally by vigorous competitive bidding during the last 15 years. While the intensity has varied by locality, there are relatively few operating areas where competitive bidding has not been a significant factor in the final price of raw material to operators dependent upon national forest timber. If an established operator in British Columbia enjoys an advantage in raw material costs over an operator purchasing public timber in the United States, it is due primarily to the practical situation under which the British Columbia operator is able to purchase timber at appraised prices.

6. In the United States there is virtually no unused cutting capacity for mill expansion in the Pacific Northwest. In British Columbia there are still working circles where cutting capacity is below allowable

cut. This ability to accommodate more industry is one significant deterrent to excessive competitive bidding in British Columbia. Of at least equal significance in British Columbia are the laws and policies establishing licensee priorities, quotas, and rights of a quota holder to pre-empt timber from a high bidder. This latter provision, which was first put into effect in 1960, is resulting in adjusting milling capacity to allowable cutting rates by means other than competitive bidding.

TABLE I.—*Comparison of stumpage values in British Columbia with national forest stumpage sales in the United States (U.S. log scale basis)*

Species and district	Constant weighting percent (1960 basis)	1958			1959			1960			1961		
		Per thousand, U.S. scale			Per thousand, U.S. scale			Per thousand, U.S. scale			Per thousand, U.S. scale		
		British Columbia	Comparable U.S. sales		British Columbia	Comparable U.S. sales		British Columbia	Comparable U.S. sales		British Columbia	Comparable U.S. sales	
			Advertised	Bid		Advertised	Bid		Advertised	Bid		Advertised	Bid
SPRUCE													
Prince George	57	$3.95	$3.73	$6.73	$6.43	$6.93	$11.81	$5.68	$4.63	$6.69	$4.47	$2.75	$6.60
Kamloops	14	4.19	4.53	4.86	5.49	13.74	14.15	6.09	10.84	11.69	3.29	4.16	5.65
Nelson	14	5.00	3.73	6.73	6.45	6.93	11.81	5.76	4.63	6.69	3.00	2.75	6.60
Vancouver	4	4.28	[1] 17.06	[1] 17.52	4.53	[1] 31.34	[1] 31.34	6.16	6.63	7.69	4.48	7.24	8.58
Prince Rupert	11	3.84	4.38	6.28	4.09	6.33	9.37	4.21	4.43	5.78	3.82	3.25	5.59
Total or average	100	4.13	4.45	6.85	5.97	8.79	12.65	5.61	5.56	7.33	4.03	3.18	6.44
DOUGLAS-FIR													
Prince George	7	4.04	2.77	4.30	7.61	5.75	9.05	6.34	4.07	7.03	6.02	2.13	7.31
Kamloops	48	5.61	3.50	6.33	8.31	10.53	15.72	7.70	7.99	10.93	5.14	3.87	7.88
Nelson	16	5.14	2.77	4.30	6.90	5.75	9.05	5.51	4.07	7.03	4.71	2.13	7.31
Vancouver	28	9.74	14.99	22.70	13.98	30.69	38.44	15.24	25.07	32.52	10.96	16.15	23.08
Prince Rupert	1	6.76	14.99	22.70	9.97	30.69	38.44	10.10	25.07	32.52	6.90	16.15	23.08
Total or average	100	6.59	6.66	10.61	9.64	15.28	20.77	9.39	12.04	16.29	6.78	7.03	12.16
HEMLOCK													
Kamloops	3	2.71	1.03	1.70	3.61	3.60	4.38	2.05	1.25	5.69	.85	1.00	7.73
Nelson	8	2.69	1.01	1.18	4.23	1.69	3.11	2.50	1.10	2.17	2.19	1.00	1.41
Vancouver	67	4.58	3.82	7.56	5.06	9.17	11.31	5.17	7.35	9.95	4.66	7.39	10.29
Prince Rupert	22	3.75	1.37	1.47	3.15	2.22	2.39	3.95	1.34	2.06	3.43	1.31	1.53
Total average	100	4.19	2.97	5.53	4.53	6.88	8.48	4.59	5.34	7.46	4.08	5.35	7.58

[1] Small volume in sample distorts this value.

British Columbia stumpage rates are combined timber sales and tree farm licenses, from reports of the British Columbia Forest Service, where rates are stated in units of hundred cubic feet. U.S. stumpage rates from forms 2400-17. Conversion factors of 6 board feet per cubic foot for coastal areas and 5.8 board feet per cubic foot for interior areas (based on factor of 1.67 for converting to lumber tally in the interior plus 15 percent overrun for interior species) and used to obtain stumpage rates per thousand board feet, U.S. log scale.

TABLE II.—*Comparison of stumpage prices for major production species in British Columbia with national forest advertised and bid stumpage prices*

Species and district	1958	1959	1960	1961	Species and district	1958	1959	1960	1961
SPRUCE					COASTAL DOUGLAS-FIR				
Bid: Prince George	$3.95	$6.43	$5.68	$4.47	Bid: Vancouver	$9.74	$13.98	$15.24	$10.96
Advertised: North Idaho and western Montana national forests.	3.73	6.93	4.63	2.75	Advertised: Western Washington coastal national forests.	14.99	30.69	25.07	16.15
Bid: North Idaho and western Montana national forests.	6.73	11.81	6.69	6.60	Bid: Western Washington coastal national forests.	22.70	38.44	32.52	23.08
INTERIOR DOUGLAS-FIR					HEMLOCK				
Bid: Kamloops	5.61	8.31	7.70	5.14	Bid: Vancouver	4.58	5.06	5.17	4.66
Advertised: Okanogan and Colville national forests.	3.50	10.53	7.99	3.87	Advertised: Western Washington coastal national forests.	3.82	9.17	7.35	7.39
Bid: Okanogan and Colville national forests	6.33	15.72	10.93	7.88	Bid: Western Washington coastal national forests.	7.56	11.31	9.95	10.29

Source: Table I.

JANUARY 18, 1962.

The Honorable ORVILLE L. FREEMAN,
Secretary of Agriculture,
Department of Agriculture,
Washinton, D.C.

DEAR MR. SECRETARY: On November 27, I called to your attention the problem faced by Pacific Northwest lumber manufacturers due to increased importation of lumber from British Columbia. One of the contentions has been that the price of timber purchased from Federal lands is somewhat higher than the prices Canadian mills pay for crown timber. Recently I have met with representatives of Oregon's forest products industries for further discussions on this situation.

At this time I ask your Department to review carefully its policy relative to pricing of Federal timber to assure that offerings being made are fully representative of its value, taking into account the current market.

I would also like to request that your Department give serious consideration to another step which may prove helpful to American firms in reducing the capital investment needed to process public timber. Last year the Forest Service developed an agreement with the Small Business Administration designed to ease the capital requirements for road construction. In addition, the Forest Service has over the last several years developed a procedure to amortize the estimated cost of timber-purchase constructed roads against approximately 80 percent of the estimated timber sale volume. I urge the adoption of a further modification which would permit, when feasible, that the estimated timber-purchaser road construction be amortized in full against some lesser amount such as the first one-fourth to one-half of the timber sale volume. It might also be well to consider whether this plan is one where the option to exercise it might rest with the purchaser. I would appreciate your examining this proposal and your advising me whether it may be adopted.

Sincerely yours,

WAYNE MORSE.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., February 14, 1962.

Hon. WAYNE L. MORSE,
U.S. Senate.

DEAR SENATOR MORSE: This is in reply to your letter of January 18, 1962, regarding national forest timber pricing policies in the Pacific Northwest.

On January 12, Regional Forester Stone at Portland announced adjustments in appraisal base period and other appraisal procedures for the Douglas-fir region of Oregon and Washington which will result in lowering appraised stumpage rates for Douglas-fir generally by about $4 per thousand board feet log scale. Reductions from the previous appraisal base will vary with circumstances on individual tracts and the proportion of timber in saw-log and peeler grades. This adjustment in appraisal base is designed to bring national forest timber appraisals in line with current market conditions. In view of the continuing vigorous competitive bidding for national forest timber offerings in western Oregon and Washington, it is felt that the adjustments announced on January 12 go as far as is justified under present conditions.

We are asking the Forest Service to give careful consideration to your suggestion to increase the rate at which accelerated amortization is applied in connection with purchaser road construction. One important limitation on your proposal is the need

to keep actual road construction accomplishments ahead of earned amortization. For instance, if for a sale on which roads are amortized on 50 percent of the volume, the roads to be built by the purchaser are not completed by the time 50 percent of the volume is cut, the United States would be exposed to loss if the purchaser should abandon the sale.

The advisability of permitting the purchaser to choose the rate of accelerated amortization seems doubtful. The maximum safe rate to protect the Government from risk of abandonment of the contract can be determined before bidding occurs. Upward bidding would not change the relationship between road construction and rate of cut.

Completed road construction without accelerated amortization is an important incentive for sale completion because the purchaser must haul out the estimated sale volume to obtain his road amortization. Under accelerated amortization the stumpage rate is increased by the amortization rate as soon as the purchaser completes cutting the volume in the amortization base. Hence after the roads have been amortized, there is no incentive to the purchaser to complete cutting because he must pay an additional amount for stumpage equal to the amortization rate.

It is evident that your proposal should be analyzed for various possible combinations of circumstances. Hence the Forest Service will want to refer it to its regional offices for study and comment. We are requesting the Forest Service to make a further reply to your proposal in approximately 1 month.

Sincerely yours,

FRANK J. WELCH,
Assistant Secretary.

FEBRUARY 27, 1962.

Hon. FRANK J. WELCH,
Assistant Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: On January 18 I wrote to Secretary Freeman on two aspects of timber pricing and on February 14 received the enclosed letter over your signature. I regret to say that it raises more questions in my mind than it answers. Based upon recent events I am sure you can understand why I have reached this conclusion.

The first substantive paragraph reiterates what I know to be a new modification of policy but it fails to define your basic policies—their intent and their effect.

In the light of the contentions by the lumber industry that the Forest Service is using speculative forecasts in setting appraised rates, a genuine need exists for a clear statement of policy.

On the matter of a possible revision of the payment schedule where extensive timber purchaser road construction is involved, serious questions arise in my mind about the response. If I read the letter correctly, it says in effect: (a) the idea will receive careful consideration; (b) to work it would be necessary to keep road construction ahead of cutting; (c) it would not be wise to let the purchaser choose the rate of amortization; and (d) the completion of road construction with accelerated amortization is an important incentive to sale completion.

Let us consider these four points in order.

On (a) I receive the distinct impression as I read further that the idea I advanced is full of flaws. At the outset it should be recognized that my letter clearly asked that the suggestion I made would apply only to situations where it would be possible.

On (b) I advanced the suggestion for application mainly to sales with major mainline roads which must be constructed before it is physically possible to remove any substantial volume of timber from a sale. Timber operators of Oregon tell me that one of their problems is that they buy a sale, must spend 3 or 4 months in expensive road construction, utilizing their own funds, and only then can start to log the timber. During the construction period they must maintain with the Forest Service a substantial downpayment on the stumpage. In this interval they do not "recover" the cost of the road until they have sold the purchased timber in the form of lumber. To be sure the appraised price of the stumpage recognizes an allowance for the estimated cost of the road but its realization, in addition to other factors not germane to this discussion, does not actually come about until the lumber is sold in the market. My letter recognized that an accelerated amortization scheme is in operation and I endorsed it. My real question was "why doesn't the Forest Service shift the time of recognition of this working capital requirement to the early part of the timber sale for the purpose of arriving at the (stumpage value)?"

As I understand the presently applied accelerated amortization plan, the net effect is to allow the estimated cost of the road against 80 percent of the estimated timber sale volume. My proposal would further compress it against 25 or 50 percent of the volume.

As to the argument that if amortization was on 50 percent of the timber it would be necessary to have the road built before this amount were removed, my answer is "of course."

Certainly the Forest Service can so write its contracts to assure that the road construction is completed in a manner consistent with the need to protect the Government from a possible loss. My further reaction would be that if half of the timber could be logged before a road was completed this would further increase the incentive to have the purchaser build a road and receive "credit" for it prior to logging.

As to point (c) I do not see how one could construe my position as being that the purchaser could select the rate of amortization. I suggested considering "whether this plan ie one where the option to exercise it might rest with the purchaser." In order that the record be constantly clear it seemed to me that the purchaser should know from the outset exactly what his obligations would be if the accelerated amortization were not in effect as compared to what it would be if he were to accept acceleration at whatever "fast rate" the Forest Service might set. His choice would be between two things—no acceleration or acceleration at one rate set by the Forest Service before sale advertisement. Quite frankly, my thought was that this option would serve as a constant reminder to the purchasers of the material assistance being offered by the plan.

Point (d) in your letter concerns me a great deal. The opening sentence of the second paragraph of page 2 contends that "completed road construction without accelerated amortization is an important incentive for sale completion because the purchaser must haul out the estimated volume to obtain his road amortization." If this in the case the 80 percent amortization procedure developed by the Forest Service earlier is subject to the same defect. If it is a fact that once road amortization allowances have been "earned" there is no incentive to complete cutting, then there should be a pretty careful analysis of practices without regard to any suggestion that I may have made for a change in the amortization schedule.

It is my practice to advise my constituents on exactly what the Department has to say on a matter referred to them. In my judgment, the letter of the 18th would raise more new question than it would answer. Therefore, I ask:

First, that you analyze the content of the January 18 letter as it bears on existing policy; second, that the suggestion I made for a revision of the "accelerated amortization" program be given a careful analytical review and third, that you endeavor to see if the entire situation cannot be set forth in another letter in a manner that will assure that the Department's program will be clearly understood by both friend and critic.

Sincerely yours,

WAYNE MORSE.

Mr. MORSE. Mr. President, before turning to the second part of Secretary Freeman's April 18 letter, I offer a suggestion to those in the lumber industry who have been expressing concern about the Forest Service timber prices. The Forest Service report seems to show that it is the competition between private firms that raise prices over the appraisal level. This makes national forest timber more costly than comparable timber purchased by Canadians from the Canadian Government. This is the Forest Service contention. On the other hand, spokesmen for the industry take the Forest Service to task for their appraisals. I ask unanimous consent that a statement by the National Lumber Manufacturers Association be printed in the RECORD at this point in my remarks. I think it demonstrates well the point that I have raised.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OVERBIDDING ON FEDERAL TIMBER SALES

One of the arguments used by the Forest Service to support existing Federal timber sales practices is that operators in some areas consistently overbid the appraised price in Federal timber sales. The Forest Service relies heavily upon this argument in almost every discussion of the issues with industry people, associations, the press, and Members of Congress.

There are valid reasons for much of the overbidding and to correct some of the existing misunderstanding of the subject, it is desirable to explain some of these reasons in detail.

First, the bid price in a timber sale is not a cash advance payment for timber. It is simply the price the purchaser will pay for the timber when he cuts it. When he "buys" the timber he makes a very small advance deposit and no further payment is required until he starts to cut.

Since most contracts run for 2 years the purchaser will plan to cut the timber at the time which is most advantageous to him. If the price of lumber goes down and the timber can only be cut at a loss during the 2 years, he may request an extension of the period in which to cut. The present Forest Service practice is to grant such extensions freely.

There is a considerable volume of Federal timber presently under sale contract which can only be cut at a loss because of the market decline in the past several years The Forest Service has granted extensions in these cases and allowed the purchasers to buy other timber at prices more nearly reflecting current market prices. In some cases, the market has declined to a point at which the new purchases cannot be cut profitably and the term of these new contracts has had to be extended as well.

Federal timber sale procedures have been altered in recent years to make it possible for the maximum number of purchasers to qualify as bidders. Sales now involve smaller

volumes of timber and the term of the typical contract is for shorter periods than in the past.

Knowing of the liberal policy of the Forest Service as to extensions of the term of the contract, some buyers have been willing to bid up sales to higher prices than the current market would justify, figuring they will not have to cut and pay for the timber until the market goes up to where it can be cut profitably. This promotes speculation and in effect creates a Federal timber futures market.

The Forest Service, then, is faced with a dilemma. To stop granting extensions now would force many purchasers into bankruptcy and would be unfair because the purchasers bid in reliance on their existing policies. In fact, the Forest Service has invited purchasers, faced with the expiration of their time limit, to request extensions if cutting the timber at the contract price would cause a hardship. While demonstrating concern about driving producers out of business, the Forest Service continues to aggravate the problem by convincing speculators that they need have no fear of being forced to fulfill their contracts, thus sponsoring further speculation.

There are many reasons why an operator will overbid on an individual timber sale even to the point of taking a substantial loss. A few of the situations in which overbids may arise are:

1. Many mills dependent on Federal timber are on a hand-to-mouth basis in their log supply. A mill with a gap in its log supply may need to secure a temporary supply in a hurry. It is far better to buy a short-term supply at a loss, even a substantial loss, than it is to shut down the mill. Shutting down an operation usually means loss of skilled workers, while equipment payments and many fixed costs continue. For short periods it is cheaper to operate at a loss than it is to shut down. Obviously the degree to which operations can be continued at a loss varies considerably.

2. Occasionally a Government timber sale is located within or adjacent to another body of timber which the purchaser owns or has under contract. The prospective sale may fit into the purchaser's logging plans for the other tract and it may be to his advantage to bid higher in order to avoid possible conflicts in logging and road rise resulting from two concurrent sales.

3. Overbidding is common, especially on sales of moderate size, where a new area is to be opened up by the road system constructed for the first sale. Frequently the sales contract allows the first purchaser to develop the roads in the area so that they put his mill in a more favorable position regarding future sales that will move over this road system. Looking toward these future sales, the purchaser may decide to risk a sizeable loss on the present sale in order to assure a future advantage over competitors, and especially so under the sealed bid procedure.

4. Timber varies considerably in size, quality and species from sale to sale. A particular purchaser may have a peculiar market opportunity about which only he knows. Some specialize in long timbers or unusual products. There may also be a market commitment which must be performed or result in loss of a preferred customer. These special situations may result in much higher than average bids, rather than lose the opportunity to serve this particular market demand.

5. In mountainous areas of the West, nearly every operator has a tough problem operating in the fall and spring when weather conditions start closing down woods operations. Some areas, mostly at low elevations, are suitable for early spring or late fall logging. These fall or spring "shows" may allow several extra months of operation, a sale may allow the purchaser to accumulate a deck of logs (a log supply in storage) that will permit mill operations throughout the winter. Depending on the individual operator's opportunities and community responsibilities, it may be worthwhile to temporarily sacrifice the possibility of profit in order to maintain year-round operations.

6. In some areas—especially those located where logs can be moved in rafts on the water, like Puget Sound and the Columbia River—logs can frequently be traded for logs more suitable for a particular mill. A purchaser may bid high knowing that he can trade these logs and keep his mill in operation.

7. Some Government sales are adjacent to or within a body of private timber that is subject to an unusual fire hazard. Some States hold private landowners responsible for fire fighting costs where their logging slash has been left in a certain condition. It may be more expedient for the private owner to purchase the adjacent Government sale at a loss than to allow another operator to come in the area. This is especially true when the second operator's fire responsibility is unknown or known to be unfavorable.

There are numerous other examples that could be cited: The location of existing facilities, roads, camps, and railroads; instances of fitting a particular sale into a company's long-term management program; and numerous instances where it is advantageous to keep a certain logging crew working rather than allowing them to disband when it's known that they will be needed at a certain future date.

The reasons behind overbidding are not difficult to determine. Most operators who buy Government timber are intimately acquainted with and experienced in these matters and generally know the reasons behind the overbids. The competitive nature of the American economy makes it not uncommon for one operator to try to crowd another one out of buying all the timber offered in an area—elimination of a competitor may be highly advantageous to the survivor.

The simple fact that some purchasers bid beyond the price at which a profit can be realized does not mean that the Forest Service is justified in using such bid prices to establish the advertised rate for future offerings. Nor does the price bid on any particular offering mean that the appraisal was either too high or too low.

The Forest Service, through requirements in the timber sales contract, has access to every timber purchaser's accounting records. The Forest Service knows average costs and selling prices as well as the experience of individual operators. There are appraisal techniques which permit accurate appraisals based on current market conditions, even by forest officers of moderate experience.

The Forest Service has insisted that timber has a value apart from the value of the products that can be manufactured from it. This value is the speculative value which might accrue if product values increased after the time of sale.

The lumber industry contends on the other hand that it is improper for the Forest Service to add an additional speculative value to a current appraised price. This type of speculation, better confined to the stock market, should not be forced upon communities and industries dependent on Federal timber. The purchasers of Federal timber have shown themselves quite ready to increase the price of timber on the basis of speculation without the Government doing it for them.

The end result of appraising timber on the basis of a future speculative price rather than the current market for lumber will be to force the industry to operate on a reduced margin of profit unless there is a faster rising market than the appraiser anticipates. Since the market has been in a decline for nearly 3 years, while Forest Service timber appraisers have continuously appraised on the assumption of a rising market, the industry has been forced into a doubly serious, unfavorable condition. This practice means that equipment cannot be replaced, money is invested in other opportunities, the industry tends to decline, competing products gain an advantage and capture markets that lumber might otherwise hold, mills shut down or curtail operations with all the attendant harmful consequences to the communities and people dependent on the national forests.

Forest Service management practices cause overbidding. The increased use of the sealed bid procedure rather than oral auction forces dependent operators to overbid if they anticipate any possibility of competition. They must "buy or die." Errors in Forest Service cruising may be evident to a purchaser who expects competition. He may raise the price on one species which he knows will cut out short of the estimated volume. He will pay only for the amount actually cut. Since the sale is awarded on the basis of the advertised volume, he will not actually pay as much for the entire offering as indicated by the bid. Failure to sell the allowable cut and overly conservative allowable cut levels cause artificial shortages that force higher bidding. The trend toward shorter and smaller sales has eliminated the opportunity for operators to build up a cushion of timber under contract for future years and increases desperation buy-or-die bidding.

Theoretically, there should be overbidding on every sale, in a competitive area. Appraisals are supposed to be operations of average efficiency and not under compulsion to deal, according to the Forest Service handbook. The more efficient operators and those short of timber can be expected to raise advertised rates that have been the product of proper appraisals to a mill of average efficiency. Sales at advertised rates are not indications of lack of competition or of purchases at a fair value. The advertised rate automatically eliminates potential bidders. No bids are permitted below advertised rates.

Mr. MORSE. Mr. President, my view is that the timber operators should show us by specific examples of actual appraisals on national forest timber how the Forest Service is using bid prices to establish the advertised rate for future offerings, and engaging in other practices which the industry believes are unfair. I say most respectfully that while the charges have been made, the evidence is not clear. If the Forest Service is not adhering to sound and reasonable practices, I can assure the industry that I will take their case to the Secretary.

I turn now to the second part of Secretary Freeman's letter of April 18—and I submit that this subject, which deals with the proper amortization of road costs, is an example of how I took a case to the Secretary of Agriculture and received his full cooperation.

Early this year, a group of Oregon lumbermen led by Mr. Sig Ellingson came to me and pointed out that one of their really difficult problems was that they might purchase a timber sale in 1960, spend 1961 building a road to haul out the timber and not remove the timber until 1962. During a period of almost 2 years, they could have over $150,000 of working capital tied up. Part would be in an advance payment on the timber but most of it would be in road construction. They said that the appraised

price of the timber contained an allowance for the estimated cost of the road, but they emphasized that their problem was this: while they built these roads, they are unable to log and remove any timber. Thus they are not able to recapture their working capital.

Recognizing that the Forest Service had a policy that endeavored to help make certain that the timber purchaser would be protected in realizing the road cost estimate by writing it off over 80 percent of the sale, it seemed logical to me that the Forest Service could go one step further. They could reduce the price of the timber in the early part of the sale until the purchaser had recaptured the estimated cost of the road.

I was somewhat surprised—I say most frankly—when Assistant Secretary Welch wrote a letter to me on February 14 which promised to look into the matter but raised objections which I thought were not well taken.

I then took the case back to the Department on February 27 and I am extremely well pleased with the final outcome as expressed by Secretary Freeman in his letter of April 18 in paragraphs 6 and 7.

I have great confidence in Secretary Freeman, in Assistant Secretary Welch, and in Dr. George Selke. I believe that they are capable administrators, desirous of doing a good job in the public interest. I have confidence also in Edward Cliff, the new Chief of the Forest Service. Agencies long established have not only tradition but a long history of doing things a certain way. Not every suggestion that is made to them has merit. Some have been tried before and rejected; some have been rejected without being tried but there is always room for improvement for we seldom reach that pinnacle of perfection which defies the end of all possible advance. I am therefore delighted that the Forest Service fully went into this idea I submitted, that the matter was further considered by Secretary Freeman, and a change of policy has resulted.

I think that this new procedure is going to be of measurable help to our lumber industry in its efforts to compete with Canada. It will not solve the total problem, but it is a useful step. There are other things that can be done. I view this change as evidence that a well-presented case will persuade the Secretary and it will persuade the new Chief of the Forest Service, Mr. Cliff.

The Forest Service will be reviewing most carefully many of its policies—allowable cuts, timber sales, timber pricing, recreation, and road access and construction. I do not expect that all policies will be changed but I do expect that there will be improvements in performance along with necessary changes in policy. As far as the present situation facing the timber industry is concerned, I am convinced that a very, very careful review of allowable cuts and timber sales is essential. We may find the means to improve the cost-price picture.

If the spokesmen for the timber industry can state their case and if their facts are sound, I am persuaded that Secretary Freeman will see them through and I am equally certain that Secretary Freeman will give the same consideration to those who want to see constructive improvements in recreation, watershed protection, mining, grazing, and other uses of our national forests.

SERVING OF ALCOHOLIC BEVERAGES IN THE CAPITOL AND SENATE OFFICE BUILDINGS

Mr. MORSE. Mr. President, I now turn to my last subject. It is concerned with the question of serving hard liquor at any official or semiofficial function of the Senate or in any public room of the Capitol or of the Senate Office Buildings, the use of which has been obtained through the sponsorship of a Member of the Senate, even though the use is for a private social function, such as a reception given for a cherry blossom princess.

I intend to discuss this subject matter on the floor of the Senate periodically, at least once a week, if necessary more often, and, again if necessary, at increasing length until the Committee on Rules and Administration, which presently is the depository of my resolution which seeks to prohibit the use of these rooms for the serving of hard liquor, sees fit to release my resolution to the floor of the Senate.

I would like to have the committee report the resolution favorably. If the Committee does not wish to report it favorably, I suggest that it can submit it with no report at all, or it can submit it with an adverse report. All I ask is that the Senate pass official judgment upon what the policy should be on the serving or not serving of liquor in the public rooms of the Senate Office Buildings and in the Senate wing of the Capitol.

It will be recalled that I first discussed this question on April 2. I discussed it at the very hour when, for the first time, so far as my knowledge is concerned, an official function was being conducted by the Senate in the new reception and conference room to, as it were, initiate or dedicate the room. Because it was an official function, and because I had learned, as I disclosed to the Senate at the time, that two liquor bars had been set up in that room, and that a considerable quantity of hard liquor was in supply for serving at that function, I protested the action as a matter of Senate policy on the floor of the Senate.

I am aware that unofficially and, somewhat surreptitiously, there have been other affairs, the responsibility for which rested with individual Senators, at which public rooms of the Senate wing of the Capitol and the Senate Office Buildings have been used for the serving of hard liquor. But, to my knowledge, the affair of April 2 was the first one of which I was aware, of which it could be said that the practice of the serving of liquor was being established as a policy precedent for the Senate. I protested it then and there.

Two days later, I submitted my resolution seeking to prohibit the serving of hard liquor at such functions and in such rooms. I left it at the desk, as I recall, for 2 or 3 days for cosponsorship by any other Senators who wished to cosponsor it. I am proud to report that at the termination of that time limit the two Senators from South Carolina [Mr. JOHNSTON and Mr. THURMOND], the Senator from Kansas [Mr. CARLSON], and the Senator from Delaware [Mr. WILLIAMS] had signed their names as cosponsors. I would be less than honest if I did not say I was a little disappointed that there were not more cosponsors. However, it was pleasing to my ears to have a large number of Senators say to me privately, as they have, "If you ever get your resolution to the floor of the Senate for a vote, I will vote for it." They will, too.

All I can do is to plead respectfully with the leadership of the Senate to afford all Members of the Senate an opportunity to answer a yea-and-nay vote on my resolution.

I intend respectfully and pleasantly, but determinedly and persistently, to do everything I can to accomplish that objective. I feel that the Committee on Rules and Administration has already had sufficient time to consider the resolution. In fact, I do not think it would take too much time for an individual Senator to pass a valued judgment on my resolution. He would be either for it or against it.

I shall now speak about the rights of the American people in regard to the resolution—for they have some rights. They pay the taxes that maintain the Capitol Building and the Senate Office Buildings. They pay the taxes which pay for the services which are involved in making possible the serving of liquor at such functions. I remember that it was about 1:15 p.m. on April 2 when an official of the Senate restaurant came into the new conference room at my request and disclosed to me the preparations which were being made for the dedication reception which was to be held starting at 4 o'clock that afternoon.

By count, at 1:30 p.m., five employees were engaged in setting up those bars. Those five employees expended their labor in hauling in the liquor. Those five employees spent the taxpayers' money in the expenditure of their time in preparation for that liquor party. So I say the taxpayers have some rights in this matter.

I respectfully say that the taxpayers have the right to have their Senators stand up and be counted on the question, too. I may be wrong in my conclusion—I do not think I am—but, in my judgment, a referendum vote on this question could be left to the drinkers of hard liquor, and a majority of them would agree with me that the public rooms of the Capitol and the Senate Office Buildings are not places in which to conduct cocktail parties under the authorization of the Senate of the United States. If we add to the population of drinkers in this country the population of nondrinkers, I am convinced that the majority in support of my resolution would be overwhelming.

The senior Senator from Oregon is pressing the resolution because he is convinced that it is not only in the public

interest but is overwhelmingly favored by the public.

I believe that in a representative parliamentary body, the public is entitled to have its policies carried out. The issue is just that simple, so far as I am concerned.

Today, I met with a group of Methodists—among them, several Methodist clergymen. They came to see me because they wanted to know the procedural situation of my resolution. I gave them the history of the resolution to date. There is no question about the opinion of that group of Methodists as to whether the resolution should come to the floor of the Senate for a rollcall vote.

Mr. President, last week I met with a group of Baptists; and the story was the same. There was no question as to what they considered to be the responsibility of the Senate regarding deciding by rollcall vote, as a matter of formal policy, whether or not my resolution should become the policy of the Senate.

In fact, Mr. President, I am satisfied that regardless of whatever might be the religious denomination of the group with whom I met, the story would be the same.

I am satisfied that the church people of America favor, by overwhelming majority, adoption by the Senate of this resolution; and I consider that I owe it to them—as well as to all the other members of our population who, I am satisfied, also favor my resolution—to exercise all my parliamentary rights before the end of this session in a determined stand to have the resolution voted on by this body, and to let the Senate decide whether it wishes to vote it up or down. I propose to do that, if necessary, because I am convinced on moral grounds that the serving of hard liquor in any of the public rooms of the Capitol or the Senate Office Buildings, at any official or semiofficial function under the sponsorship and authorization of the Senate or of a Member of the Senate, cannot be justified. I think it is a sad example to be setting for the youth of the country. I think it is a sad example to be setting for the citizenry of the country.

I do not propose to attempt to determine whether any colleague or any friends or guests of any colleague should drink. That is their private business. I have said before, and I now repeat, that I am not a prohibitionist. But when it comes to a matter of public policy, which concerns the use of the dollars of U.S. taxpayers, and when we, as legislators set an example for the youth and the other citizens of the United States, I believe we have reached a sorry pass if we authorize, as an official policy, the use of the public rooms in the Capitol or in the Senate Office Buildings for liquor parties.

If Members of the Senate desire to stage a liquor party, as great advocates of the private-enterprise system they should rent a hotel reception room downtown or at hotels within a stone's throw of the Capitol in which to hold it.

They should not desecrate—and I repeat that it is a desecration—the Capitol Building of the United States and the Senate Office Buildings with booze parties.

Mr. President, in this country we need to be on guard at all times against the lowering of moral standards. Our pastors, our teachers, our welfare workers, our juvenile and prison authorities—in fact, all experts in all fields and disciplines dealing with problems of human behavior—tell us that excess consumption of liquor in this country is on the increase. We are informed that the social damages resulting therefrom have already reached almost a point of national catastrophe.

Mr. President, millions of Americans recognize the validity of the point I have just now made. Millions of Americans, who, like me, are not prohibitionists, and who recognize that drinking liquor is the private business of a mature adult, take the position that those who do it should do it in private. They should not "mooch with their hooch" in the public rooms of the Capitol and the Senate Office Buildings. If a man is going to desecrate the great citadel given by God—his body—he should not at the same time desecrate the Capitol Building of the United States and the Senate Office Buildings.

Mr. President, this issue cannot be erased from the calendar of the Senate. Senators cannot blindfold themselves to this issue. Increasing numbers of American citizens are going to be heard from on this issue; and I am going to do what I can to help see to it that the Senate hears from the people, because I think this nefarious practice must be stopped at the beginning, and now is the time to do it.

So, Mr. President, I close this brief speech today—and I use the word "brief" in light of what future speeches on this subject will be—with a plea on my lips, to the chairman and to the other members of the Senate Rules Committee, to bring my resolution to the floor of the Senate and to give me a rollcall vote on it, and to let the Senate make the final decision.

RECESS TO MONDAY

Mr. MORSE. Mr. President, unless there are other speeches to be made, I move that, under the previous order, the Senate stand in recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 6 o'clock and 10 minutes p.m.) under the order previously entered, the Senate took a recess until Monday, April 30, 1962, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 27, 1962:

Office of Emergency Planning

Justice M. Chambers, of Maryland, to be Deputy Director of the Office of Emergency Planning.

In the U.S. Air Force

The following-named officers for appointment in the Air Force Reserve to the grades indicated, under the provisions of chapter 35 and section 8373, title 10, of the United States Code:

To be major generals

Brig. Gen. Philip P. Ardery, AO325990, Air Force Reserve.
Brig. Gen. Kenneth Stiles, AO900928, Air Force Reserve.
Brig. Gen. Barry M. Goldwater, AO270184, Air Force Reserve.
Brig. Gen. John B. Montgomery, AO304671, Air Force Reserve.
Brig. Gen. Roy T. Sessums, AO913943, Air Force Reserve.

To be brigadier generals

Col. Howard E. Payne, Jr., AO421987, Air Force Reserve.
Col. Walter L. Hurd, Jr., AO427544, Air Force Reserve.
Col. J. Clarence Davies, Jr., AO904230, Air Force Reserve.
Col. Donald S. Dawson, AO582705, Air Force Reserve.
Col. Robert F. Goldsworthy, AO398709, Air Force Reserve.
Col. George H. Yeager, AO300572, Air Force Reserve.
Col. George H. Wilson, AO424322, Air Force Reserve.
Col. Alfred L. Wolf, AO907086, Air Force Reserve.
Col. Oliver G. Haywood, Jr., AO2255064, Air Force Reserve.
Col. Richard C. Hagan, AO307796, Air Force Reserve.
Col. Frank J. Puerta, AO401051, Air Force Reserve.
Col. John S. Patton, AO1851377, Air Force Reserve.
Col. William D. Price, AO286176, Air Force Reserve.

The officers named herein for appointment as Reserve commissioned officers in the U.S. Air Force, to the grades indicated, under the provisions of sections 8351, 8363, 8376, and 8392, title 10, of the United States Code:

To be major general

Brig. Gen. Earnest H. Briscoe, AO291638, Ohio Air National Guard.

To be brigadier generals

Col. Albert L. Pearl, AO350203, Air Force Reserve.
Col. Robert D. Campbell, AO663481, California Air National Guard.
Col. John R. Dolny, AO672579, Minnesota Air National Guard.
Col. Arthur F. Fite, Jr., AO411954, Alabama Air National Guard.
Col. Erick W. Kyro, AO661335, Michigan Air National Guard.
Col. James K. McLaughlin, AO789398, West Virginia Air National Guard.
Col. Charles F. Riggle, Jr., AO403611, Florida Air National Guard.
Col. Dale E. Shafer, Jr., AO433414, Ohio Air National Guard.

In the U.S. Army

The following-named officers, under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in rank as follows:

To be lieutenant generals

Maj. Gen. Charles Hartwell Bonesteel 3d, O18655, Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Louis Watson Truman, O18755, U.S. Army.

1. The following-named officers to be placed on the retired list, in the grade indicated, under the provisions of title 10, United States Code, section 3962:

Lt. Gen. Lionel Charles McGarr, O17225, Army of the United States (major general, U.S. Army).

Lt. Gen. Arthur Gilbert Trudeau, O15513, Army of the United States (major general, U.S. Army).

2. The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in rank as follows:

To be general

Lt. Gen. Robert Jefferson Wood, O18064, Army of the United States (major general, U.S. Army).

To be lieutenant generals

Maj. Gen. John Hersey Michaelis, O20328, Army of the United States (colonel, U.S. Army).

Maj. Gen. William White Dick, Jr., O18384, Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Dwight Edward Beach, O18747, U.S. Army.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. George Justus Hearn, O295111.

To be brigadier generals

Col. Lyle Everett Buchanan, O1000717, Adjutant General's Corps.

Col. Paul Leonard Kleiver, O397818, Adjutant General's Corps.

Col. Roy Elcanah Thompson, O360841, Adjutant General's Corps.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major generals

Brig. Gen. William John Lange, O1175482.

Brig. Gen. Henry William McMillan, O323208.

Brig. Gen. Weston H. Willis, O289949.

To be brigadier generals

Col. Glenn Charles Ames, O328307, Armor.

Brig. Gen. Thomas Sams Bishop, O403542.

Col. Wilbur Henry Fricke, O340297, Artillery.

Maj. Gen. Henry Vance Graham, O398163.

Col. Jack Guest Johnson, O370102, Signal Corps.

Col. Howard Samuel McGee, O387469, Artillery.

Col. Luther Elmer Orrick, O357391, Artillery.

Col. James DeWitt Scott, O381931, Armor.

Col. Max Henry Specht, O383575, Artillery.

Col. Herbert Owen Wardell, O293295, Artillery.

Col. Charles Austin Willis, O357988, Artillery.

The officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3384:

To be major generals

Brig. Gen. Chester Pilgrim Hartford, O288390.

Brig. Gen. Herbert Russell Morss, Jr., O293333.

Brig. Gen. Cooper Burnett Rhodes, O258656.

To be brigadier generals

Col. William Henry Baumer, O2201379, Infantry.

Col. Phillips Leland Boyd, O230117, Medical Corps.

Col. Edward Stephens Branigan, Jr., O325381, Artillery.

Col. Joseph Hall Buchanan, O407996, Artillery.

Col. Costas Louis Caraganis, O306965, Armor.

Col. John Peter Connor, O416675, Infantry.

Col. Felix Albert Davis, O466259, Corps of Engineers.

Col. Carl Jens Dueser, O300655, Infantry.

Col. Denver Woodrow Meacham, O314699, Artillery.

Col. Carl Curtis Saal, O923083, Transportation Corps.

Col. Myron Jewell Tremaine, O336516, Medical Corps.

Col. Lawrence Grant Treece, O291041, Corps of Engineers.

Col. John Edward Vance, O229832, Corps of Engineers.

Col. Louis Burton Wolf, O387002, Armor.

Col. Spurgeon Brown Wuertenberger, O295174, Artillery.

IN THE U.S. MARINE CORPS

To be lieutenant generals

Lt. Gen. Alan Shapley, U.S. Marine Corps, to be placed on the retired list in the grade indicated, in accordance with title 10, United States Code, section 5233.

Having been designated, in accordance with the provisions of title 10, United States Code, section 5232, Maj. Gen. Carson A. Roberts, U.S. Marine Corps, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade indicated while so serving.

IN THE AIR FORCE

The nominations beginning Richard W. Abele to be major, and ending Paul Edgerton Zumbro to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 2, 1962.

The nominations beginning Emmert M. Aagaard to be lieutenant colonel, and ending Lloyd J Neurauter to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 16, 1962.

IN THE ARMY

The nominations beginning Leslie W. Bailey to be lieutenant colonel, and ending Raymond J. Zugel to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 19, 1962.

IN THE NAVY AND MARINE CORPS

The nominations beginning Warren R. Abel to be ensign, and ending Thomas C. McAllister to be second lieutenant in the Marine Corps, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 16, 1962.

HOUSE OF REPRESENTATIVES

MONDAY, APRIL 30, 1962

The House met at 12 o'clock noon.

Rabbi Gerald Kaplan, Agudath Achim Synagogue, Hibbing, Minn., offered the following prayer:

Almighty and Eternal God, as we stand before Thee admidst the multitude of Thy creation, we ask Thy divine guidance so that this day will bring forth the accomplishments necessary to eliminate the many insurmountable obstacles which lie in our path.

The obstacles of poverty and sickness, the obstacles of ignorance, and as we forge through these obstacles, we pray that amidst these problems, our wish, that mankind will strive to live in peace, will be a living reality in our time.

As this day slowly unfolds its page, let us ever be mindful of possessing the gift of life for another day—another day to comprehend our purpose in this world, another day to share with the unfortunate that which is loaned to us, another day in seeking to bring ourselves closer to the eternal ways of the Almighty. This then is the goal which we must seek this day.

Let us pray.

Our Father, who art in heaven, we pray for Thy blessing, united together, upon your dedicated servants, John F. Kennedy, the President of these United States; LYNDON B. JOHNSON, the Vice President; the Speaker of the House of Representatives; and all the Members of Congress. Be ever with them in their moments of triumph and their moments of struggle.

As in the words of the poet:

I looked for my God, but my God I could not see.
I looked for my soul, but it eluded me.
I looked for my brother, then I found all three.

THE JOURNAL

The Journal of the proceedings of Thursday, April 19, 1962, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. McGown, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1668. An act to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields.

JUSTICE LESTER HOLTZMAN

Mr. CANNON. Mr. Speaker, supplementing the remarks of the gentleman from New York [Mr. CELLER] at our last session, may I join with him in expressing appreciation of having had the opportunity to serve here with our distinguished former colleague, Hon. Lester Holtzman—and particularly in felicitations to Judge Holtzman on his elevation to the bench of the Supreme Court of the State of New York.

We regret to lose him from the House. But his wide legal experience, his knowledge of the law, and his calm judicial temperament particularly fit him for the judiciary.

We wish for him many years of notable service in the eminent position to which he has been called.

NATIONAL MISS TWINS, U.S.A., WEEK

Mr. SISK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.